

SCANNET

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal under section 120 of the Act

BETWEEN SANFORD SOUTH ISLAND LIMITED

(RMA 382/03)

Appellant

AND

THE MARLBOROUGH DISTRICT COUNCIL

Respondent

BEFORE THE ENVIRONMENT COURT

Environment Judge S E Kenderdine sitting alone pursuant to section 279 of the Act

IN CHAMBERS

CONSENT ORDER

HAVING CONSIDERED the appeal, and the memorandum of the parties, THIS COURT HEREBY ORDERS BY CONSENT that the appeal is allowed and the decision of the Respondent is set aside.

The application is duly granted, subject to the following conditions:

1. [a] The consent is granted for a coastal permit [occupancy and structures] for an extension of 0.5775 hectares to an existing marine farm [MFL140] in an unnamed Bay north of Horahora Kakahu Island Port Underwood.
[b] The extension is to include 14 long lines with a total backbone length of 1650m as set out in attachment "B".
[c] The plan of the extension is as set out in attachments "A" and "B".
[d] The resource consent shall have a term of 20 years.

Conditions for Coastal Permit – Occupancy and Activity

2. That without restricting the consent holder from reasonably undertaking the activities authorised by this resource consent, the consent holder shall not undertake the activities in such a way that would effectively exclude the public from the permit area.

That there shall be no feed artificially introduced into the marine farm.



4. That the occupancy be limited to the area illustrated on the plan attached to this consent, and confined to the area specified within the schedule of New Zealand map grid co-ordinates.

Conditions for Coastal Permit – Structures

5. That the structures be limited to anchors, ropes, droppers, floats, lights and other necessary navigational aids associated with the marine farming of the approved species. All structures shall be situated and secured so as to remain within the boundaries of the consent area at all times. The number of lines shall be at the discretion of the consent holder, but shall not exceed the number applied for, the separation distances between lines shall be no less than as applied for, and lines shall be oriented as shown on the plan included with the application.
6. That each end of each longline display an orange buoy, as shall the middle of each of the seawardmost and landwardmost longlines.
7. That each buoy at each end of the seawardmost and landwardmost longlines carry a band of reflective tape, 50 millimetres in width, around its circumference.
8. That the external corners of the surface structures of the seawardmost and landwardmost longlines display a yellow light. The lights shall be solar powered and shall have the following characteristics:

Flash: Group flashing 5 every 20 seconds. Length of flashes no less than 1 second. Interval between flashes, no less than 1 second.

Range: At least 1 nautical mile.

Height: Greater than 1.0 metre above the surface of the water.

9. That radar reflectors be displayed at each end of the seawardmost length of the surface structures.
10. That each end of each of the landwardmost and seawardmost longlines carry the name of the consent holder and the number of the consent displayed in bold clear letters in such a manner that they can be clearly read from a distance of 10 metres.
11. That the consent holder maintain all structures to ensure that they are restrained, secure and in working order at all times so as to not create a navigational hazard and take whatever steps are reasonably necessary to retrieve any non-biodegradable debris lost in or from the permit area.
12. That each buoy within the approved area be permanently branded so as to clearly identify its ownership.
13. That the applicant notify the Chief Hydrographer/Topographer of Land Information New Zealand and the Marlborough District Council of the establishment of marine farm structures within 3 months of their establishment.

That in accordance with section 128 of the Resource Management Act 1991, the Marlborough District Council may at any time review the conditions of consent that relate to the way in which this marine farm is required to be



marked or lit for navigational purposes, for the purpose of ensuring that any potential navigational hazard is avoided, remedied or mitigated.

FOOTNOTES:

1. Te Tau Ihu iwi have made a claim in the Courts that they own the foreshore and/or seabed at this site and others. In the event that the claim is upheld by the Courts it is possible that the consent holder may need to reach agreement with Te Tau Ihu iwi in relation to the exercise of this consent.


Accordingly the grant of this consent:

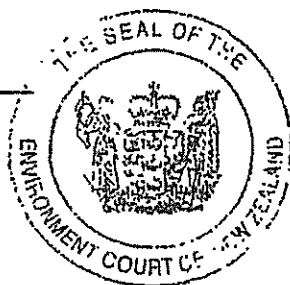
- a) Is without prejudice to the claim of Te Tau Ihu iwi to customary ownership of the foreshore and/or seabed at this site; and
 - b) Does not preclude the possibility that the consent holder may need to reach agreement with Te Tau Ihu iwi in the exercise of this consent in the event that the claim to customary ownership is upheld by the Courts.
2. The Ministry of Fisheries has advised that it will assess the effects of the marine farm on fishing and fisheries resources when the applicant applies for a fisheries permit under the Fisheries Act 1983.
 3. Please note that pursuant to Section 200(7) of the Maritime Transport Act 1994 no person may erect or place a navigational aid, alter the character of a navigational aid or alter or remove the position of a navigational aid without the approval of the Director of Maritime Safety.

The appeal is otherwise dismissed.

There is no order as to costs.

DATED at WELLINGTON this 16th day of December 2004


S E Kenderdine
Environment Judge



Port Underwood

Sec 2
Blk XVI Arapawa SD
CT 4A/437
Whataroa Forestry
Development Ltd



U920127
Pe 20

Extent of original Appln

0.5775 ha

Coastal Marine Zone Boundary

124° 53' 30"
30.00

304° 53' 30"
198.35

34° 53' 30"
192.50

214° 53' 30"
192.50

Li 140

XXXIV
SO 321

Horahora Kakahu I

Sec 4
Blk XVI Arapawa SD
Horahora-Kakahu Pa
Historic Reserve

Sec 5
SO 4526
Local Purpose Reserve
(Sounds Foreshore)

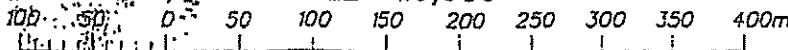
Proposed Coastal Permit U010733 Being Extension to Li 140 Sanford South Island Ltd

SCHEDULE OF COORDINATES		
New Zealand Map Grid		
Point	East	North
1	2605358.6	5985799.0
2	2605248.5	5985641.1
3	2605223.9	5985658.2
4	2605334.0	5985816.1
Central	2605291.3	5985728.6
XXXIV SO 321	2605521.3	5985685.5

NOTE: The position of this application has not been surveyed.

MARLBOROUGH DISTRICT COUNCIL

SCALE 1:5,000



Datum: New Zealand Map Grid

Prepared by;

Date 19/09/03

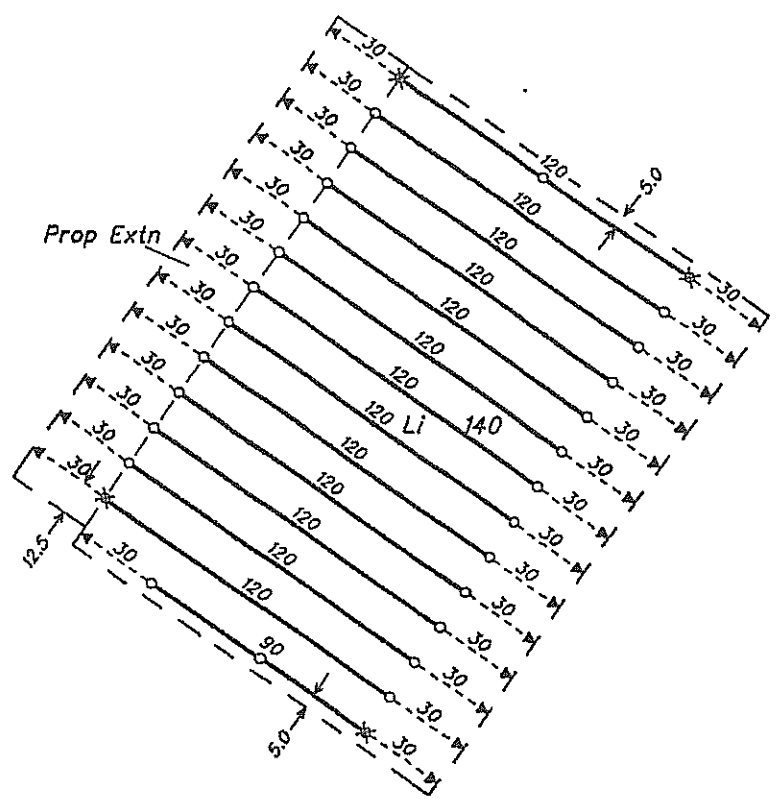
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B

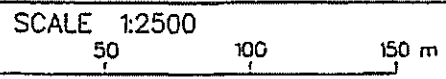
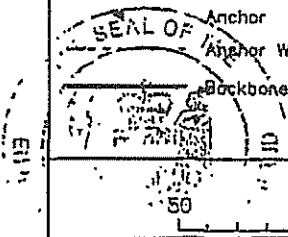
Port Underwood



NOTE: Longline Spacing = 14.6m
 Total Longlines = 14
 Total Backbone Length = 1650m
 Warp length = 30m

- REFERENCE**
- ⊠ Orange float with light and Radar Reflector
 - Orange Float
 - ⊠ Anchor
 - ⊠ Anchor Warp (32mm Rope)
 - ⊠ Backbone (24-28mm Rope)

*Layout Details Lic 140
 and U010733
 Sanford South Island Ltd*



Prepared by; DRAUGHTING Plus	Date 19/09/03 MF_1206w.qcd
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