



# Management of salmon farming in the Marlborough Sounds Cultural Impact Assessment

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***Ministry of Primary Industries***

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Prepared for the Ministry of Primary Industries by Maximize Consultancy Ltd

## Mihi

Tihei mauri ora!

Me wehi ki te Atua, nāna nei ngā mea katoa, nō te tīmatanga iho, tae noa ki te whakaotinga. Ka tukuna te whakahōnore ki te Kīngi Tuheitia, koia hoki kua tapaina e te motu kia nōhia te taumata kua waiho e ōna mātua, e ōna tūpuna. Pai mārire ki te Kāhui Ariki whānui tonu. Kei ngā mate huhua o te wā, haere, haere, hoki atu rā ki ō koutou nei okiokinga, ki ō koutou moe tē whakaaria.

Huri noa ki a koutou o te Tau Ihu, ko koutou, ko Ngāti Apa ki te Rā Tō, ko Ngāti Koata, ko Ngāti Kuia, ko Ngāti Rangitāne o Wairau, ko Ngāti Rarua, ko Ngāti Tama ki Te Tau Ihu, ko Ngāti Toa Rangatira, ko Te Ātiawa o Te Waka-a-Māui, tēnā koutou katoa. Nā koutou, ahau i pōwhiri, i whakatau, i wero, i roto i ngā kōrerorero mō ngā pāmu ahumoana hāmana nei. Me taku tūmanako pono, ka mau tūturu i ahau, ā koutou nei kupu, ā koutou nei nawe, ō koutou nei whāinga. Waihoki? Mā tōna wā ka mōhio. Nā koutou katoa te tūranga toimaha ki te tū pakari hei kaitiaki o te taiao, mai i ngā maunga, heke iho i ngā awa ki te whenua, tere tonu rā ki ō koutou nei moana. Heoi anō, ka whakanuia koutou e ahau.

Ka mihia hoki e ahau, ngā kaimahi o te Manatū Ahu Matua, e whakapau kaha ana i te mahere mō ngā pāmu ahumoana nei. Ehara i te mahi ngāwari ki te āta aro ki ngā kōrero maha kua puta mai i tēna, i tēna wāhanga o te hāpori e ngākaunui ana ki te kaupapa nei. Ahakoa ngā toimahatanga, kia mārō tonu hei painga mō te iwi, hei painga mō te whenua, he painga mō te moana.

Huri noa, huri noa, tēnā koutou katoa,  
Nāku iti nei,

Tipene (Steven) Wilson  
[tipene@maximize.co.nz](mailto:tipene@maximize.co.nz)  
+64 (0) 21 476645

*I pay homage to the Lord, from who comes all things – from the beginnings and, indeed, to the end.  
I honour King Tuheitia, who was named by the land to sit in the place of his ancestors, and ask blessings on his family.  
To those that have passed away, I bid you farewell to your eternal rest, to your sleep from which there is no awakening.*

*To the tribes of Te Tau Ihu, Ngāti Apa ki te Rā Tō, Ngāti Koata, Ngāti Kuia, Ngāti Rangitāne o Wairau, Ngāti Rarua, Ngāti Tama ki Te Tau Ihu, Ngāti Toa Rangatira, and Te Ātiawa o Te Waka-a-Māui I bid you all greetings. You welcomed me and made me feel at home while challenging me in discussions around salmon farming. I sincerely hope that I have accurately captured your words, concerns, and aspirations. Who knows? That will be revealed in time. You all have the difficult role and responsibility of being resolute as kaitiaki over the environment – from the mountains, descending via the rivers to the land, and flowing to the seas. And so, I acknowledge you all.*

*I also thank Ministry of Primary Industries staff who have laboured to progress this piece of work. It is not easy to carefully consider the multiple perspectives from sectors of the community with an interest in marine farming. Despite that difficulty I encourage you to persevere in the interests of the people, of the land, and of the sea.*

*With my greetings.*

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## Executive Summary

The Ministry for Primary Industries ('MPI') is working with the Marlborough District Council ('MDC') to investigate options to relocate six salmon farms (four from Te Hoiere [Pelorous Sound] and two from Tōtaranui [Queen Charlotte Sound]) to more suitable sites in Te Hoiere and Kura Te Au (Tory Channel). MPI and MDC wish to understand the potential cultural and other effects on mana whenua, mana moana, tāngata whenua of relocating the sites. To do this, MPI worked with Te Tau Ihu Fisheries Forum and commissioned Maximize Consultancy Ltd to prepare a Cultural Impact Assessment ('CIA') for MPI. The CIA does not replace any statutory consultation processes required under the RMA.

This CIA is a report of findings, informed by a literature review of publicly available information regarding mana whenua, mana moana, tāngata whenua interests in the area; stated positions regarding marine matters; a series of one-on-one hui with mana whenua, mana moana, tāngata whenua groups; and attendance at a Te Tau Ihu Fisheries Forum Hui. Information confidential to a specific mana whenua, mana moana, tāngata whenua group is not included in the CIA. In some instances, mana whenua, mana moana, tāngata whenua have reserved comment until more specific site locations are known. It is expected that MPI and/or MDC will have discussions with specific mana whenua, mana moana, tāngata whenua groups about specific sites.

This CIA does not seek to determine who has mana whenua or mana moana over any area or waterway within Te Tau Ihu. The research undertaken shows the historical and widespread activity of each of Te Tau Ihu tribes (Ngāti Koata, Ngāti Kuia, Ngāti Apa ki te Rā Tō, Ngāti Toa Rangatira, Te Ātiawa o Te Waka-a-Māui, Ngāti Rangitāne o Wairau, Ngāti Tama ki Te Tau Ihu and Ngāti Rarua) in Kura Te Au, Tōtaranui and Te Hoiere. Every tribe has at some point fished, had kāinga or pā (whether temporary or permanent), or is able to relate kōrero tūpuna in and around most, if not all, of these waterways.

The potential effects, issues and opportunities identified in the literature review and two rounds of hui are listed below (NOTE: the term 'iwi' is used to include mana whenua, mana moana, and tāngata whenua hapū and iwi in the area). This is followed by a list of suggested mitigation measures that could mitigate the potential effects, issues and opportunities. Suggested mitigation measures are subject to discussion and approval by mana whenua, mana moana, tāngata whenua, MPI, and MDC.

**PLEASE NOTE:** This Cultural Impact Assessment (CIA) is the **FINAL REPORT**. Suggestions for CIA amendments can be made in your submission to MPI by **27 March, 2017**.

## Summary of effects, issues and opportunities

- a) **Timeframes, process:** A number of iwi highlighted that the time to go through any information provided was too limited. Most noted that they had internal processes to follow in order to confirm a position with respect to matters such as this project and would be unable to respond in the initial timeframe.
- b) **Desire to engage directly with MPI:** Some iwi expressed a preference to work directly with MPI, including preparing their own CIA, rather than engage fully in an externally facilitated process. Others were comfortable with external involvement, while others preferred a hybrid where an externally prepared CIA was undertaken and the iwi provided more detailed, site specific information.
- c) **Cultural issues:** Cultural issues are a significant area of concern for iwi who have generally noted that their relationship with the coastal and marine environment is of the utmost importance in terms of maintaining relevant customs and traditions associated with the sea. These concerns include, but are not limited to:
- **Kaitiakitanga** – This project may risk undermining the ability of iwi to undertake kaitiakitanga responsibilities.
  - **Customary uses and practices** – on, in and under the coastal and marine environment. These customary uses and practices are wide ranging and partially explored below.
  - **Mahinga kai/mahinga mātaihai** – The project may impact on mahinga kai/mahinga mātaihai practices, in an area that has been an Iwi ‘food basket’ for generations.
  - **Manaaki tangata** – Any activity should be avoided that undermines the ability for Iwi to show hospitality to others, through impacting on or depleting kai resources. This would severely impact on the mana/reputation of generations.
  - **Taonga species** – Anything that could impact the mauri of taonga species (e.g. kawau [king shag], aihe [dolphin], pāua, kōura, kina, and a variety of fish species) should be avoided.
  - **Traditional and contemporary waka routes** – for many, the regular or migratory navigation routes that tūpuna took are important and worthy of preservation. Any use of these traditional and contemporary routes for anything other than waka navigation needs to be carefully considered.
  - **Wāhi tapu, sites of significance** – There are centuries long histories throughout the area, which has seen hundreds of wāhi tapu, sites of significance, and/or archaeological sites (collectively ‘wāhi tapu’) established. Different iwi often have wāhi tapu in the same area as the use and/or dominance of these groups has shifted over time. Regardless of the current dominant and/or recognised interest(s) in a particular area, it would be prudent to err on the side of caution when considering who should be engaged in the event that the relocation may impact on a single or number of wāhi tapu.
- d) **Access to waterways:** This project may diminish opportunities for acquisition of mooring and access to important areas. Ongoing access to their food basket is critical for iwi identity, customary uses and practices, and the ability to manaaki tangata.
- e) **Te mauri o te wai, water quality:** The mauri, or vital life essence and life supporting capability, of the coastal and marine environment is extremely important to iwi. Te mauri o te wai needs to be maintained in perpetuity to sustain and support the coastal and marine environment and abundance of indigenous species.
- f) **Other ecosystem, environmental effects (including benthic environment):** Closely linked to water quality are other environmental effects, including the effect on the benthic environment. Relative to a more natural distribution of fish, there is concern at the concentration of fish in a marine farming context with

## FINAL – amendments may be suggested by submission to MPI

the accompanying faeces, litter and food requirements and any associated impact on the natural marine biodiversity.

- g) **Site establishment, disestablishment:** Iwi are keen to avoid adverse effects from site establishment and disestablishment and would like to fully understand the rationale for relocating sites, including any community, social and/or political reasons for potential relocation. Some iwi are keen to consider alternative uses for sites that may no longer be used for salmon farming (e.g. other types of marine farming), subject to suitably addressing the effects of any alternative use.
- h) **Cumulative effect:** There is a concern at the cumulative effect of establishing/disestablishing salmon farms, particularly in the context of other activities (e.g. forestry) contributing to the decline of the marine environment. It is insufficient to consider the effects of establishing/disestablishing farms in isolation of the receiving environment in which these activities occur.
- i) **Commercial fisheries:** Iwi are keen to understand what, if any, impact this project has on their commercial fisheries interests, including the aquaculture settlement, and to ensure that those commercial interests are at least protected. Additionally, there appears no formal opportunity for iwi to participate in or substantively benefit from the results of this project's investigations.
- j) **Effect on aquaculture settlement:** There is concern that, during negotiations for the aquaculture settlement, iwi were unable to negotiate a suitable iwi allocation for salmon farming and, even if negotiations were successful, the aquaculture settlement provided insufficient resources to meet the necessary regulatory requirements to develop the salmon farms. Subsequent legislation change (vis a vis s.360A of the RMA) has provided a mechanism for aquaculture development not available or offered to iwi at the time of the aquaculture settlement. This project appears to give New Zealand King Salmon an unfair advantage over iwi.
- k) **Monitoring and review:** Iwi are aware that best practice changes over time with advances in knowledge and technology. Monitoring will only be effective if there is an opportunity to review farm operation in the event that it shows less than optimal farm operation. Iwi expect to be involved in any monitoring and to be able to influence any review of farm operation, updates to *Best Management Practice Guidelines*, and/or ensuring compliance with the *Guidelines*. If not already included, updating the guidelines should also consider mātauranga Māori practices.
- l) **Opportunities for formal collaboration:** Some iwi have varying degrees of interest in exploring opportunities for commercial partnership and/or collaboration. This may also extend to direct investment in a site(s). Some iwi consider it timely to review current and future formal relationships with NZKS.
- m) **Site specific issues:** that have arisen to date are listed below:
  - **General site issues:** Iwi may have specific reasons why one site should be preferred over another site for relocation or disestablishment and this will need to be further discussed with iwi.
  - **Site F Ruakaka in Tōtaranui:** Te Ātiawa contend that Ruakaka (Site F) should remain unless there is a compelling reason to dis-establish that site.
  - **Site G Otanerau:** Subject to satisfying its concerns, Te Ātiawa were in favour of first removing the Otanerau site (Site G).
  - **Site 34 in Te Hoiere:** Ngāti Kuia have advised that this site is near a wāhi tapu/site of significance for Ngāti Kuia, named Te Ana o Kaikaiawaro.
  - **Site 42 – Tipi Bay:** This bay was once the site of whaling operations in the area and the future use of this site for salmon farming needs to be discussed further with iwi.
  - **Site 47 – Moioioi Island:** Rangitāne advise that Moioioi Island was first inhabited during Ngāi Tara Rangitāne 'fish hook wars' with Ngāi Tahu and there is an urupā in the area

## Suggested mitigation measures

As previously mentioned, the mitigation measures outlined below are suggestions only and subject to discussion between mana whenua, mana moana, tāngata whenua; MPI and MDC.

Issue, opportunity	Suggested mitigation measures
<b>Timeframes, process</b>	<ol style="list-style-type: none"> <li>1. Continue to engage with mana whenua, mana moana, tāngata whenua during the public consultation period (up to March 2017), to confirm this CIA.</li> <li>2. Future drafts of CIA to consider and take into account the principles of Te Tiriti o Waitangi. This will need to be discussed further with mana whenua, mana moana, tāngata whenua to clarify the principles and the place of existing settlement legislation in considering alignment with the principles.</li> <li>3. Undertake second round of hui (per the outlined process) to further develop the CIA and investigate any site specific issues. (COMPLETED)</li> <li>4. Consider reviewing the Terms of Reference for Te Tau Ihu Fisheries Forum, having particular regard to communication with constituent iwi authorities and decision-making protocols.</li> </ol>
<b>Desire to engage directly with MPI</b>	<ol style="list-style-type: none"> <li>5. Maximize to connect MPI with those iwi that wish to pursue a different process to that suggested in this CIA without limiting the ability of those iwi to participate in this CIA process. (COMPLETED)</li> </ol>
<b>Cultural concerns</b>	<ol style="list-style-type: none"> <li>6. MPI to undertake an analysis of technical reports and provide a technical assessment of the project's impacts on cultural concerns.</li> <li>7. In partnership with mana whenua, mana moana, tāngata whenua and resourcing mana whenua, mana moana, tāngata whenua involvement, MPI work to develop and implement a Cultural Health Indicators/Index ('CHI') framework for the project. This includes monitoring and enforcement measures to ensure the project's impact on the overall cultural landscape, customary uses and practices, on the mauri of mahinga kai/mahinga mātaihai, taonga species, and other attributes noted below is within agreed limits when assessed against baseline data. (N.B. this includes CHI measures that assess how freely iwi are able to participate in traditional and contemporary cultural practices. This may also include the development of a 'mauri model' as part of or additional to the CHI framework). The development of a CHI framework may be started during the public consultation process but will need to continue beyond the close of public consultation.</li> <li>8. Assess how traditional and contemporary waka routes will be impacted by the project (e.g. refer Attachment 1 of Elkington's evidence to the NZKS hearing, attached to CIA as <b>Attachment 2</b>)</li> <li>9. If there is any potential impact on known wāhi tapu as a result of site establishment or disestablishment, undertake an assessment, with mana whenua, mana moana, tāngata whenua group(s) who have current and/or historical interests in an area and whose site(s) may be impacted to determine what, if any, suitable mitigation measures could be implemented.</li> <li>10. Develop and implement accidental discovery protocols in the event that site establishment or disestablishment impacts on a previously unknown wāhi tapu.</li> <li>11. Arrange site visit to a 'typical' salmon farm to understand how the farm operates including underwater and biodiversity issues.</li> </ol>
<b>Access to waterways</b>	<ol style="list-style-type: none"> <li>12. Include 'access to waterways' as a CHI assessment measure.</li> <li>13. As part of 'access to waterways' assess how/if increased seal populations in the area of salmon farms impact on customary and recreational users, including divers and avoid, remedy, and/or mitigate any impacts to a level suitable to, mana whenua, mana moana, tāngata whenua.</li> </ol>
<b>Te mauri o te wai, water quality</b>	<ol style="list-style-type: none"> <li>14. Include attributes to assess 'te mauri o te wai' as a CHI assessment measure.</li> <li>15. Ensure that effects on te mauri o te wai are avoided, remedied or mitigated to a level suitable to mana whenua, mana moana, tāngata whenua</li> </ol>
<b>Other ecosystem, environmental effects</b>	<ol style="list-style-type: none"> <li>16. Include attributes to assess 'other ecosystem, environmental effects' as a CHI assessment measure.</li> <li>17. Ensure that effects on the ecosystem and environment are avoided, remedied or mitigated to a level suitable to mana whenua, mana moana, tāngata whenua</li> </ol>

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Issue, opportunity	Suggested mitigation measures
<b>Site establishment/ disestablishment</b>	<p>18. Provide mana whenua, mana moana, tāngata whenua with a comparison of the relative benefits of the existing low-flow sites with high-flow sites</p> <p>19. Provide mana whenua, mana moana, tāngata whenua with technical reports that explain the rationale for disestablishing a site including any community, social, and/or political factors. (N.B: this may require further synthesising the information in the technical reports into a format suitable for mana whenua, mana moana, tāngata whenua)</p> <p>20. Where practicable, reach agreement with mana whenua, mana moana, tāngata whenua on site establishment and disestablishment, including but not limited to agreeing that there is a nett benefit in relocating the sites.</p> <p>21. Demonstrate how the sites to be established will maintain site integrity, and avoid, remedy, or mitigate any adverse effects to the seabed.</p> <p>22. Provide mana whenua, mana moana, tāngata whenua with a site disestablishment plan that clearly outlines how the site will be restored.</p> <p>23. Provide mana whenua, mana moana, tāngata whenua with opportunities to investigate alternative uses for sites to be disestablished, including providing the site for the use of other groups.</p>
<b>Cumulative effect</b>	<p>24. Include attributes to assess ‘other cumulative effects’ as a CHI assessment measure. (See mitigation measure below regarding monitoring and review)</p> <p>25. Understand and suitably avoid, remedy, or mitigate any risks in and around Onapua associated with toxic algal blooms.</p>
<b>Commercial fisheries</b>	<p>26. Iwi to understand and support the impact of this project on iwi commercial fisheries’ interests, including the aquaculture settlement.</p> <p>27. Investigate a longer term, more formal relationship between NZKS and iwi with commercial fishing interests in the area that provides mutual benefit to parties to the formalised relationship.</p>
<b>Effect on aquaculture settlement</b>	<p>28. Test whether the prompt payment of funds related to the retrospective aquaculture settlement should or could occur before progressing the relocation of salmon farms (including amending the Marlborough Sounds resource management plan).</p> <p>29. Investigate opportunities to provide benefit back to iwi in the nature of the aquaculture settlement as a part of making regulations under s.360A of the RMA – e.g. sites no longer to be used for salmon farming are handed back to iwi that are interested to develop other aquaculture ventures (see 23).</p> <p>30. Test whether the project risks creating a contemporary Tiriti o Waitangi grievance or breach</p>
<b>Monitoring and review</b>	<p>31. CHI and consent conditions to provide for the opportunity for mana whenua, mana moana, tāngata whenua to be invited to meaningfully participate in monitoring and review of farm operation, regular updates to <i>Best Management Practice Guidelines</i>, ensuring overall compliance with the <i>Guidelines</i> (current and any future updates to <i>Guidelines</i>), and ensuring farms regularly update operations to meet best practicable outcomes/guidelines. (N.B: this includes allowing for mana whenua, mana moana, tāngata whenua to be resourced to participate in the monitoring and review process. This also requires that monitoring and review is undertaken in an area by the appropriate mana whenua, mana moana tāngata whenua group(s) rather than by group(s) without such interests in the area.)</p> <p>32. Consider and review effectiveness and efficiency of existing tāngata whenua panels including considering joining the panels together to better understand the entire fin fish farming process and associated issues, opportunities and mitigation measures. NOTE: that any review may suggest no changes to the current processes.</p>
<b>Opportunities for formal collaboration</b>	<p>33. Subject to resolution of the above issues, Te Tau Ihu commercial fisheries collective and/or interested iwi discuss opportunities for formal collaboration with MPI, MDC and/or NZKS for sites to be established or disestablished that ideally show direct benefits accruing to iwi.</p> <p>34. Iwi implement a process to resolve overlapping mana whenua interests where the overlapping interests are material and a barrier to exploring opportunities for collaboration. This includes formalising amongst iwi, as required, whether any direct benefits accrue to Te Tau Ihu commercial fisheries collective and/or to individual iwi or group of iwi.</p>



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Issue, opportunity	Suggested mitigation measures
	35. Confirm any resourcing requirements (time, expert advice, costs, etc) for mana whenua, mana moana, tāngata whenua to be involved in implementing and/or monitoring mitigation measures.
<b>Site specific issues</b>	<p>36. <b>General</b> – allow for hui ā iwi, as required, to confirm wider iwi support for specific sites.</p> <p>37. <b>General</b> – clarify any other site specific issues with iwi (e.g. relative preference for disestablishing Ruakaka [Site ‘F’] compared with Otanerau [Site ‘G’]) having appropriate regard for legislation, including Deeds of Settlement and associated documents. This could include considering offset mitigation measures (e.g. restoration of nearby wāhi tapu sites).</p> <p>38. <b>Site 34</b> – work with Ngāti Kuia (and potentially other iwi) to confirm protocols for managing the effects of activity at this site on Te Ana O Kaikaiawaro.</p> <p>39. <b>Site 42</b> – discuss options for developing Tipi Bay with Te Ātiawa, Te Tau Ihu commercial fisheries collective, and other mana whenua, mana moana, tāngata whenua, as appropriate.</p> <p>40. <b>Site 47</b> – determine what effect, if any, a farm could have on the urupā in the area and work with mana whenua, mana moana, tāngata whenua to confirm suitable ways to avoid, remedy or mitigate the effects.</p>

## Background

The Ministry for Primary Industries ('MPI') is working with the Marlborough District Council ('MDC') and the salmon industry to improve the management of salmon farming in the Marlborough Sounds. Compliance with the *Best Management Practice Guidelines* is a key component of the proposal. These farms are operated by New Zealand King Salmon ('NZKS').

MPI and MDC are investigating options to relocate six salmon farms (four from Te Hoiere [Pelorous Sound] and two from Tōtaranui [Queen Charlotte Sound]) to more suitable sites in Marlborough. Proposed sites are anticipated to have improved environmental outcomes and to comply with the *Best Management Practice Guidelines*. The two areas being considered for re-siting the farms are Te Hoiere and Kura Te Au (Tory Channel). There will be no increase in salmon farm surface cage space, even if relocation does occur. MPI and MDC wish to understand the potential effects of relocating the sites, including cultural and other effects on mana whenua, mana moana, tāngata whenua (those iwi and hapū that exercise customary and other authority over the land and ocean in the general areas under investigation). At the time of initiating this report, some nine or ten specific locations were being further investigated for suitability. Since that time there are six sites still under investigation across Kura Te Au (one) and Te Hoiere (five).

There are a number of technical reports being prepared to understand the issues, opportunities, potential mitigation measures, risks and benefits of relocating the sites. MPI worked with Te Tau Ihu Fisheries Forum and agreed that one of the technical reports needed to be a Cultural Impact Assessment ('CIA') for the potential relocation options. MPI and the forum also discussed and determined who would prepare the CIA. Subsequently, Maximize Consultancy Ltd ('Maximize') has been commissioned to prepare the CIA for MPI. It should be noted that the CIA does not replace any statutory consultation processes required under the RMA, nor does it replace any other best practice consultation and engagement processes that may occur. It is also recognised that MPI or MDC cannot compel mana whenua, mana moana, tāngata whenua to engage in this CIA process and, indeed, some mana whenua, mana moana, tāngata whenua have their own views regarding the CIA process with a preference to use their own capacity and capability to prepare their own CIA and/or to provide specific comment on this CIA. At the very least it is hoped that the Maximize prepared CIA will inform and appropriately express general mana whenua, mana moana, tāngata whenua views on this matter and such specific views as mana whenua, mana moana, tāngata whenua are willing to share.

Pivotal to preparing the CIA is understanding mana whenua, mana moana, tāngata whenua views on the positive and negative issues and effects in respect of;

- a) Removing six salmon farms from the present locations; and
- b) Relocating the farms to another site; while
- c) Considering how, or if the effects can be appropriately mitigated.

This document is a report of findings, informed by a literature review of publicly available information regarding mana whenua, mana moana, tāngata whenua interests in the area; stated positions regarding marine matters, in particular, salmon farming; and a series of one-on-one hui

with mana whenua, mana moana, tāngata whenua groups. Maximize also attended a hui of Te Tau Ihu Fisheries Forum.

### *Terminology*

Those with customary authority over an area tend to refer to themselves by any or all of a variety of names, such as, iwi, tāngata whenua, hapū, mana whenua, mana moana, tāngata whenua, and so on. For the purpose of this CIA the term generally used is ‘mana whenua, mana moana, tāngata whenua’ meaning those iwi and hapū that exercise customary and other authority over the land and ocean in the general areas under investigation. However, it is recognised that some iwi may have an interest in an area that is historical (e.g. as a result of historical occupation of an area with accompanying wāhi tapu and other sites of significance), while current mana whenua, mana moana, tāngata whenua status is held by another iwi. Additionally, there are instances where mana whenua, mana moana, tāngata whenua interests are overlapping and shared by two, or more iwi. Therefore the term ‘mana whenua, mana moana, tāngata whenua’ seeks to encompass all the various ‘Māori’ interests that exist in the areas under investigation. It is acknowledged that the nature of any interests may impact the degree of influence a particular group has over a particular area or site, depending upon the matter under discussion.

### *Preparation and Methodology*

The methodology outlined below has been followed in preparing the CIA.

- a) **Project initiation:** Initial project meeting with Project Personnel to clarify project scope, timeframes, consultation and engagement process, etc.
- b) **Literature review:** Literature review of existing, publicly available information relevant to the project (includes a review of CIAs and evidence provided for the NZKS EPA application, Iwi/Hapū Environmental Management Plans [‘EMPs’], Council information on wāhi tapu in the proposed areas, and relevant sections of Treaty Settlement legislation).
- c) **Initial round of hui:** concurrent with the literature review set up a series of initial one-on-one hui mana whenua, mana moana, tāngata whenua to discuss the project. Attend a hui of Te Tau Ihu Fisheries Forum to speak to the project.
- d) **Initial report:** based on literature review and initial round of hui with mana whenua, mana moana, tāngata whenua provide an initial report outlining matters of likely relevance to mana whenua, mana moana, tāngata whenua along with suggested mitigation measures. Distribute Initial Report to mana whenua, mana moana, tāngata whenua; MPI and MDC for comment.
- e) **Analysis of information and feedback to date and produce second report:** Prepare **Second Report** that expands, as required, on key points (issues, effects, mitigation measures) based on feedback received from mana whenua, mana moana, tāngata whenua; MPI and MDC.
- f) **Third Report and key issues:** further analysis of comments and any mana whenua, mana moana, tāngata whenua CIAs, and preparation and distribution of Third Report for further

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comment. Initial summary of key issues to date forwarded to author of Assessment of Environmental Effects Report ('AEE') for including in overall AEE Executive Summary.

- g) **Written feedback received:** in forming the Fourth Report (and the second and third reports), Maximize also relied upon and is appreciative of written feedback from representatives of Ngāti Kuia (via track changes in the first Draft CIA and email), Rangitāne o Wairau (via track changes in the first Draft CIA), Te Ātiawa (via email), and Ngāti Koata (via Ngāti Koata CIA and Recommendations documents prepared by Tiakina Te Taiao Ltd).
- h) **Fourth report distributed:** Based on feedback to date and further literature review, prepare fourth report for discussion with mana whenua, mana moana, tāngata whenua.
- i) **Second round of hui:** second round of one-on-one hui in January 2017 to discuss second report.
- j) **FINAL CIA:** based on feedback from second round of hui, produce a FINAL CIA for all parties that summarises the methodology, key outputs and outcomes, issues, impacts, agreed mitigation measures and outstanding areas of disagreement, if any. This may also include references to matters mana whenua, mana moana, tāngata whenua raise that are out of scope of the project but still important to mana whenua, mana moana, tāngata whenua for their own reasons. Distribute Final CIA to mana whenua, mana moana, tāngata whenua; MPI and MDC for comment.

### *Further comments*

- a) **Literature review:** The literature review for this CIA has drawn from multiple sources of publicly available documents inclusive of:
  - i. Te Tau Ihu mana whenua CIA's and submissions to the New Zealand King Salmon Board of Inquiry (2012);
  - ii. The multiple documents (via the Ministry of Justice and the Office of Treaty Settlements websites) for the respective Te Tau Ihu mana whenua Treaty Settlements with particular regard to the waters and landmarks in and around Te Hoiere, Tōtaranui and Kura Te Au;
  - iii. Te Tau Ihu Statutory Acknowledgements (2014);
  - iv. Te Tau Ihu Iwi Environmental Management Plans available on the internet;
  - v. Te Tau Ihu mana whenua websites inclusive of some Te Tau Ihu Commercial Fisheries;
  - vi. The Marlborough, Nelson and Tasman District Councils websites; and
  - vii. The New Zealand Archaeological Association (NZAA) website.<sup>1</sup>
- b) **Disagreement or dispute:** Where practical and possible, and where the parties agree, Maximize is happy to facilitate discussions between parties where disagreement or dispute exists to:
  - i. Address the disagreement to a mutually agreed outcome; or

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<sup>1</sup> A full Bibliography is appended

## FINAL – amendments may be suggested by submission to MPI

- ii. Agree a process with the parties to resolve the disagreement or dispute; or
  - iii. Clearly understand and articulate the area(s) of disagreement to inform the CIA.
- c) **Capacity, capability, willingness to engage in this CIA:** as mentioned above it is also recognised that MPI or MDC cannot compel mana whenua, mana moana, tāngata whenua to engage in this CIA process. In fact, some mana whenua, mana moana, tāngata whenua have their own views regarding the CIA process with a preference to use their own capacity and capability to prepare their own CIA and/or provide specific comment on this CIA. At the very least it is hoped that the Maximize prepared CIA will inform and appropriately express a range of mana whenua, mana moana, tāngata whenua views on this matter.

### Limitation of this CIA

This Maximize prepared CIA will be a publicly available document. Therefore, information confidential to specific mana whenua, mana moana, tāngata whenua groups is not included in the CIA.

Additionally, in some instances, mana whenua, mana moana, tāngata whenua have reserved comment until more specific site locations are known and/or may have specific preferred mitigation measures to manage the effects of establishing and disestablishing salmon farms.

Going forward, it is expected that MPI and/or MDC will have discussions with specific mana whenua, mana moana, tāngata whenua groups about specific sites.

## Mana whenua, mana moana, tāngata whenua interests in Kura Te Au, Tōtaranui, and Te Hoiere

This section is provided to establish a general context for later discussions on issues and opportunities related to the project. It is the practice of generations to establish a claim for occupation or use of the resources of an area through being tāngata whenua and/or the exercise of mana whenua, mana moana, tāngata whenua rights and responsibilities over an area. Mana whenua, mana moana, tāngata whenua interests and the nature of those interests often relate to a moment in time, and could change over time, when one or another tribe occupied or utilised the resources of an area. Interests could be determined by a variety of means including, but not limited to, ahi kā roa (long term occupation), tuku whenua (one tribe gifting the use or occupation of an area of land/sea to another tribe with or without conditions), mahinga kai/mahinga mātaītai (harvesting the resources of land or sea for food), and conquest where a tribe, victorious in battle, takes over an area of land/sea.

It is not appropriate for Maximize to determine who has mana whenua or mana moana over any area or waterway within Te Tau Ihu; that has been debated throughout the Treaty Settlement and other processes. It is further understood that there are still outstanding matters to resolve with respect to mana whenua, mana moana, tāngata whenua interests in Te Tau Ihu.

These are complex matters and it is not appropriate that this CIA attempts to determine who has mana whenua, mana moana, tāngata whenua interests (dominant or otherwise) in a particular area. If such interests become material to this project, mana whenua, mana moana, tāngata whenua will need to resolve such matters amongst themselves. Mana whenua, mana moana, tāngata whenua interests may be material in the event of formalising relationships (commercial, cultural or otherwise) over a particular salmon farm site. It is strongly recommended that MPI and MDC avoid any role in resolving such matters unless specifically requested by all parties to the dispute.

The research undertaken shows the historical and widespread activity of each of Te Tau Ihu tribes (Ngāti Koata, Ngāti Kuia, Ngāti Apa ki te Rā Tō, Ngāti Toa Rangatira, Te Ātiawa o Te Waka-a-Māui, Ngāti Rangitāne o Wairau, Ngāti Tama ki Te Tau Ihu and Ngāti Rarua) in Kura Te Au (Tory Channel), Tōtaranui (Queen Charlotte Sound) and Te Hoiere (Pelorus Channel). Every tribe has at some point fished, had kāinga or pā (whether temporary or permanent), or is able to relate kōrero tūpuna in and around these waterways.

Many documents from each of the treaty claim settlements in Te Tau Ihu were used to inform this piece of work. This research was further informed by discussions during the initial round of hui. It is also important to note that individual Te Tau Ihu tribes have multiple entities from pre-settlement documents and have created further entities post settlement. Maximize apologises in advance if the correct name for a tribal entity is not used as no disrespect is intended. No comment or attempt is made to test the veracity or strength of claims to mana whenua, mana moana, tāngata whenua interests in the areas of interest to this piece of work. However, the nature and relative strength of mana whenua, mana moana, and tāngata whenua interests in an area may be material and important going forward, particularly as specific sites of interests for relocating farms are determined (refer to suggested Mitigation Measure 34).

## **Tiriti o Waitangi/Treaty of Waitangi Settlement considerations**

The process of settling the claims of Crown breaches of Te Tiriti o Waitangi/The Treaty of Waitangi brings with it settlement redress including, but not limited to, specific recognition of a tribe's interests in certain areas, including interests in aquaculture; and tribes being given the rights of first refusal for the purchase of surplus Crown lands within a specified area. Some of this redress is relevant to this project and discussed below.

### **Right of First Refusal**

Te Ātiawa o Te Waka-a-Māui, Ngāti Rarua, Ngāti Kōata, Ngāti Tama ki Te Tau Ihu, Ngāti Apa ki te Rā Tō, Ngāti Toa Rangatira, Ngāti Kuia and Rangitāne ki Wairau are recognised as having Rights of First Refusal ('RFR') over some lands within the 'Specified area of RFR lands' (OTS 202-140) (Ministry of Justice c, 2013, p. 72). For the purposes of this CIA it is not yet known whether or not any RFR lands will be implicated in the proposal. However, experience has shown that iwi take a dim view of Crown actions that lead to the land all but being alienated from Crown use without triggering the RFR process. An example of this is where a long-term lease is granted to a private company over Crown owned land. In this case, the land is not formally sold or alienated from Crown ownership but neither is the Crown using the land for Crown purposes. However, such long-term leases provide a benefit to the Crown from a private entity without necessarily triggering the need to offer the land to iwi under the terms of the RFR. Iwi can view this as the Crown breaching the principles and intent of any settlement arrangements.

### **Statutory acknowledgements**

Statutory acknowledgements recognise the particular cultural, spiritual, historical and traditional association of an iwi with an identified site or area. Often areas of interest overlap and, like Te Tau Ihu Statutory Acknowledgements (2014), multiple iwi share and are acknowledged as having common interests. Amongst other things, acknowledgements allow iwi groups legitimate engagement with the respective councils. Acknowledgements that have a bearing on this project include:

- a) The Crown provides all of Te Tau Ihu mana whenua, mana moana, tāngata whenua Statutory Acknowledgement and Deeds of Recognition over Te Tau Ihu coastal marine area.
- b) Fisheries Protocols provide very clear guidelines of engagement for Te Tau Ihu iwi. The protocols generally cover recognition of interests in all aquatic life, engagement in national fisheries plans, iwi fisheries plans, customary non-commercial fisheries management, rāhui, information exchange, and other considerations. All Te Tau Ihu Iwi have agreed protocols as referenced below:
  - i. Rangitāne o Wairau (Ministry of Justice a, 2010, p. 56)
  - ii. Ngāti Apa ki Te Rā To (Ministry of Justice a, 2011, p. 63)
  - iii. Ngāti Rārua (Ministry of Justice b, 2011, p. 80)
  - iv. Ngāti Kōata (Ministry of Justice a, 2013, p. 75)
  - v. Te Ati Awa o te Waka a Māui (Ministry of Justice a, 2012, p. 122)
  - vi. Ngāti Toa Rangatira (Ministry of Justice b, 2012)
  - vii. Ngāti Tama (Ministry of Justice b, 2013, p. 69)
  - viii. Ngāti Kuia (Ministry of Justice b, 2010, p. 68)

- c) All Te Tau Ihu Iwi are recognised Iwi aquaculture organisations and are therefore able to compete for ‘new space’ as detailed through the Ministry for Primary Industries. (Ministry for Primary Industries, 2014, p. 47)
- d) Te Hoiere, Pelorus Sound –
  - i. Ngāti Kuia (deed plan OTS 099-47)
  - ii. For Ngāti Kuia, Ngā Pou o Te Hoiere represents the recognition and acknowledgement of their iconic cultural associations in Te Tau Ihu. Te Hoiere is the name of the waka guided by Kaikai-a-warō to Te Tau Ihu, bringing their tipuna Matua Hautere, and it is synonymous with Ngāti Kuia. This represents the cultural redress being offered by the Crown. (Ministry of Justice b, 2010, p. 6)
  - iii. Tarakaipa Island Urupā (deed map OTS-099-42) lies further inland from Maud Island and is vested in Ngāti Kuia and Ngāti Apa. Statutory Acknowledgement and Deed of Recognition also apply (ibid. p.24)
  - iv. Ngāti Toa Rangatira as kaitiaki (deed plan OTS 68-74) (Ministry of Justice b, 2012, p. 68)
- e) Tōtaranui – Te Ātiawa o Te Waka a Māui (deed plan OTS 099-59)
- f) Coastal Marine Area: Ngāti Apa ki te Rā Tō, Ngāti Kuia (known to Ngāti Kuia as Hineparawhenua), and Rangitāne o Wairau (deed plan OTS 099–51)
- g) Te Tau Ihu Coastal Marine:
  - i. Ngāti Kōata, Ngāti Rārūa, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui; (deed plan OTS 202–63)
  - ii. Ngāti Toa Rangatira (known to Ngāti Toa Rangatira as Poutiaki Coastal Marine (deed plan OTS 068–70) (Ministry of Justice b, 2012, p. 70)

5.24.2 The purpose of the poutiaki plan is to identify:

- (a) the values and principles of Ngati Toa Rangatira in relation to the poutiaki coastal marine area;
- (b) the resource management issues of significance to Ngati Toa Rangatira in relation to the poutiaki coastal marine area; and
- (c) Ngati Toa Rangatira's statement of kaitiakitanga relating to fisheries management in relation to the poutiaki area.” (Ministry of Justice b, 2012, p. 69)

The Poutiaki area includes Te Hoiere (including Kenepuru Sound, Mahau Sound and Tennyson Inlet).

### **Aquaculture Settlement Areas**

This settlement sets aside a percentage of marine ‘space’ for ‘iwi katoa’ (all tribes) of Te Tau Ihu. (Ministry for Primary Industries Manatu Ahu Matua, 2013). The area set aside in Kura Te Au, Tory Channel – Oyster Bay of 3 ha on 29 September 2011 (Gazette date) is specifically mentioned. It is not yet known whether any more ‘space’ has been allocated. The issue of further aquaculture space allocation for iwi was raised in the evidence of G. Paine (2012). The subsequent aquaculture settlements has enabled Te Tau Ihu mana whenua to enhance their existing commercial fisheries or to create new fisheries enterprises. A common thread drawn from research is the acknowledgement that there is more onus on mana whenua to actively exercise their kaitiakitanga



and so mana whenua groups need, “...therefore to both nourish and utilize [their] commercial fisheries resources effectively in order to deliver sustainable cultural economic and social benefits to... (Rangitaane, 2004, p. 6)” their tribal members.

#### Iwi with non-mana whenua, mana moana interests but commercial interests in the area

Research into mana whenua, mana moana interests in the above areas relied upon iwi information provided on the Marlborough District Council website (<http://www.marlborough.govt.nz/Your-Council/Tangata-Whenua.aspx>). Representatives from three tāngata whenua groups indicated that they do not have specific mana whenua, mana moana interests in the above areas. These were Te Rūnanga o Kaikōura Inc., Ngāti Rārua, and Ngāti Tama. Ngāti Rārua and Ngāti Tama have commercial fisheries interests in the area due to sharing in the fisheries settlement (FMA7). However, this is different from having mana whenua, mana moana interests in the area. Maximize is advised that this project will be put before the Ngāti Tama ki Te Waipounamu Trust to confirm this position.

Subject to mana whenua, mana moana discussions, tribes with commercial interests in the area are interested to understand what, if any, impact this project has on commercial fisheries interests and to ensure that those commercial interests are at least protected. This may extend to having a longer term relationship with NZKS.

#### Specific sites of significance, wāhi tapu, vested lands and acknowledgements

This section considers and comments on specific waterways, sites of significance, wāhi tapu, and vested lands and accompanies the above acknowledgements. It relies upon the literature reviewed and conversations during the initial round of hui. As previously mentioned, it is beyond the scope of Maximize’s role and this CIA to determine the relative merit and nature of mana whenua, mana moana, tāngata whenua interests in the Marlborough Sounds.

Borrowing from Te Ātiawa o Te Waka-A-Māui example, mana whenua, mana moana, tāngata whenua generally express their relationship with the coastal and marine environments as “*of the utmost importance both in terms of maintaining relevant customs and traditions associated with the sea, and as kaitiaki* (Te Ātiawa o Te Waka-A-Māui, 2014, p. 22).”

#### Kura Te Au, Tory Channel

Kura Te Au and Tōtaranui have approximately 300 recorded sites on Archsite (New Zealand Archaeological Association, 2016) demonstrating the significance of this area to mana whenua, mana moana, tāngata whenua. As with the entire area, sites may be attributed to the exercise of mana whenua, mana moana, tāngata whenua roles and responsibilities from different groups depending upon when the sites were established. This includes site establishments pre-dating the Treaty and the arrival of Pākehā to the area. The literature review suggests Te Ātiawa o Te Waka a Māui have strong mana whenua interests in Kura Te Au. This conclusion is drawn, in part, because of the vesting of cultural sites in Te Ātiawa o Te Waka-a-Māui;

- a) **Katoa Point** is vested in the Te Ātiawa o Te Waka a Māui Trust (NZ Legislation, 2014); the reserve is named Te Ātiawa Kura Te Au Scenic Reserve (deed plan OTS-202-127).

- b) **Moioio Island**, vested in Te Ātiawa o Te Waka a Māui, lies just out from Erie Bay in Kura Te Au (deed plan OTS-202-19).

A rock formation in Tory Channel, opposite Moioio Island, is known as Te Kakau o te Toki o Kupe (The Handle of Kupe's Axe), and an especially glittery rock within Kura te Au called Te Uira Karapa (The Lightning) is said to have frozen the flash of Kupe's axe when it struck Te Wheke a Maturangi. Kura Te Au is the kaitiaki of the pā called Moioio, while on the adjacent mainland is another, Kaihinu. Ngāti Rahiri, through their chief Huriwhenua, were the kaitiaki of both Moioio and Kaihinu, and these still remain today under the mantle of Te Atiawa o Te Waka-a-Maui nui tonu. (Ministry of Justice a, 2012, p. 14)

- c) Whaling was a large component of Te Atiawa o Te Waka-a-Maui history, and was the local economy with principal stations in Tory Channel at Te Awaiti and Jacksons Bay. Whaling and the significance of the whale can be seen in the wharenui at Waikawa and the gateway to the Marae. Te Atiawa o Te Waka-a-Maui witnessed the last harpooning of the great whale from a rowboat at Dieffenbach in Kura Te Au. (ibid.)
- d) Further, Te Ātiawa o Te Waka-a-Māui Environmental Management Plan has classified Kura Te Au – Tory Channel and adjacent environs as their 'Tino Taonga...Principal Treasures.' (Te Atiawa o Te Waka-A-Maui, 2014, p. 13).

That said, the literature and comments from the initial round of hui suggests interests in the area from Ngāti Toa Rangatira and the Kurahaupō tribes of Ngāti Rangitāne, Ngāti Kuia, and Ngāti Apa ki te Rā Tō in Kura Te Au. Rangitāne note *"Areas of particular cultural significance include...Tory Channel (Kura Te Au), the area around Arapaoa Island (Mitchell & Mitchell, 2015)."* Comments from the initial round of hui note Kurahaupō tribes undertaking long term fishing and other uses of Kura Te Au and the surrounding Tōtaranui.

#### Tōtaranui, Queen Charlotte Sound

Te Ātiawa o Te Waka-a-Māui Environmental Management Plan has classified Tōtaranui - Queen Charlotte Sound and adjacent environs as their 'Tino Taonga...Principal Treasures'. (Te Atiawa o Te Waka-A-Maui, 2014, p. 13). Te Ātiawa have been awarded interests (through settlement) in the Queen Charlotte Forest that borders Kura Te Au near Oyster Bay (OTS-202-22). In recognition of Te Ātiawa interests in Tōtaranui, Te Ātiawa o te Waka-a-Māui Trust has been appointed as statutory Trustees over Tōtaranui with the ability to provide advice to the Minister of Conservation and the Director-General of Conservation (Ministry of Justice c. 2012, p.28). This recognition carries with it RMA responsibilities to *"prepare a kaitiaki plan setting out the values of Te Ātiawa o Te Waka-a-Māui in relation to the coastal marine area"* in Tōtaranui (ibid. p.29). Marlborough District Council, *"when preparing or changing a regional policy statement or regional coastal plan, to take into account the kaitiaki plan as if that plan is a relevant planning document recognised by an iwi authority under the"* RMA (ibid.).

Rangitāne note *"Queen Charlotte Sound and Arapaoa Island contained many Rangitane pa, kainga, cultivation sites, tauranga waka and places where kaimoana were caught"*. (Ministry of Justice a, 2010, p. 24). Though potentially outside of the areas of interest, Bradley notes that Rangitāne were

granted reserve lands in the late 1890s in Endeavour Inlet and Port Gore. In their 2014 settlement Rangitāne were also granted recognition in the form of reserves in Ngakuta and Momorangi bays. Rangitāne o Wairau continue to issue Customary Fishing authorisations to Iwi members under s.59 of Amateur Fisheries Regulations. (2016)

Ngāti Toa Rangatira was awarded Tōtaranui/Queen Charlotte forestry interests but not along the Kura Te Au foreshore.

### **Te Hoiere, Pelorus Sound**

Te Hoiere is another marine channel with huge significance to Te Tau Ihu tribes with multiple NZAA registered sites in and around the vicinity of Te Hoiere (New Zealand Archaeological Association, 2016).

#### **Ngāti Apa**

The association of Ngāti Apa to the inner reaches of Te Hoiere has been acknowledged by a Deed of Recognition and Statutory Acknowledgement over **Tarakaipa Island** (Ministry of Justice a, 2011, p. 19)

Ngāti Apa's relationship with its whenua and wai is integral to its identity as a people. Tarakaipa symbolises for Ngāti Apa people the intense nature of their relationship to their environment, and the mauri or life force that is contained in all parts of the natural environment and binds the spiritual and physical world.

Tarakaipa is one of the largest islands of inner Te Hoiere (Tennyson Inlet). It was named after the Ngāti Apa tupuna Tarakaipa, a great-grandson of Tamahau and son of Rawaru. Tarakaipa was an important rangatira who was among the leaders of an early migration to Te Tau Ihu. He arrived in Te Tau Ihu on the sacred waka Te Awatea, built from a hull of the Kurahaupo waka. Tarakaipa is also the name of a hapu of Ngāti Apa.

Ngāti Apa tupuna had considerable knowledge of places for gathering kai and other taonga, ways in which to use the resources of the moana and tikanga for the proper and sustainable utilisation of resources. Tarakaipa was an important fishing area (mahinga mataitai) for Ngāti Apa, providing access to important moki and elephant fish breeding grounds.

The island contained a pa and kainga/fishing station complex associated with these activities. It still contains a number of urupa and other spiritual sites which are connected to Ngāti Apa people.

All these values are still important to Ngāti Apa today (Nelson City Council, et al., 2014, p. 11)

#### **Ngāti Kōata**

Ngāti Kōata also have kōrero related to Te Hoiere suggesting an interest in the area.

- a) Elkington asserts that, following the acceptance of a tuku (customary gift) of part of Te Hoiere from Tutepourangi of Ngāti Kuia and the accompanying kaitiaki (guardianship) role,

...one of our fighting chiefs, a large man often called 'The giant **Whakatari**', stationed himself outside the entrance to the Pelorus Sound not far from both this subject salmon farm application and the existing farm in **Waihinu Bay**. His mana and protection and the mana and protection of subsequent **Ngāti Kōata** chiefs extend beyond the boundaries of the *tuku*. **Whakatari's** bravery and protectionism are legendary. It is under the same spirit of mana and protectionism established by our *Tupuna* that this evidence is submitted. As such, the salmon farms in the **Waitata Reach** and the **Pelorous** are of significance to us. Not just because we have our people living in the vicinity, as we did in ancient times, but because our protectionism extends to all people, regardless of race or culture...In our ancestors days we would travel extensively [*sic.*] and frequently by *waka*...The proposed farms at **Tapipi** and **Richmond** will interfere with the *waka* routes and by so doing would impinge on our mana, our *kaitiakitanga* and out [*sic.*] *rangatiratanga*. (2012, pp. 5 & 6) (refer **Attachment 2**)

- b) Elkington further discusses **Kaitira** noting that '*[t]his site is in front of 3 recorded sites of significance including part of the feeding grounds of Te Kawau a Toru (The King Shag)*'. (ibid.)' Additionally, Hippolite states,

A *korero* from our old people talks about the explorer and master mariner Kupe. One of Kupe's captains Pōtoru had a pet king shag. The shag was known as Te Kawau a Toru (The shag of Toru). The king shag would explore the waters for Kupe, warning of dangers ahead. While exploring Te Aumiti the shag broke a wing and stayed in the pass until it eventually turned to stone. This story shows how the king shag is a special *taonga* to Ngāti Kōata with special significance to us. Whenever we see a king shag we are reminded of Kupe, Te Aumiti, and Te Kawau a Toru. To this very day Te Kawau a Toru stands as a *kaitiaki* to us all as if to warn us of the treacherous waters of Te Aumiti. Ngāti Kōata opposes the grant of the proposed marine farms by King Salmon as the **Waitata** reach farms will impact the feeding and breeding grounds of the King Shag. (2012, p. 8)

### *Ngāti Kuia*

Research confirms that Ngāti Kuia have interests in Te Hoiere and the following is noted:

- a) A *Whenua Rāhui* was created over Te Pākeka (Maud Island) in recognition of the cultural and spiritual connection to Ngāti Kuia. Te Pākeka lies centrally in the channel (OTS-099-77 (Ministry of Justice b, 2010, p. 9))
- b) For Ngāti Kuia, Ngā Pou o Te Hoiere represents the recognition and acknowledgement of their iconic cultural associations in Te Tau Ihu. Te Hoiere is the name of the *waka* guided by Kaikai-a-warō to Te Tau Ihu, bringing their *tipuna* Matua Hautere, and it is synonymous with Ngāti Kuia. This represents the cultural redress being offered by the Crown. (Ministry of Justice b, 2010, p. 6)
- c) Tarakaipa Island Urupā (deed map OTS-099-42) lies further inland from Maud Island and is vested in Ngāti Kuia and Ngāti Apa. Statutory Acknowledgement and Deed of Recognition also apply (ibid. p.24)

d) Smith noted,

Ngāti Kuia regards Te Hoiere/Pelorous as an entire living entity and the heart of Ngāti Kuia spheres of influence which includes not just the banks and beds but its many streams, lakes, tributaries, its catchments floodplains, its flora fauna as well as its metaphysical being. (Raymond Smith and Te Runanga o Ngāti Kuia Resource Management, 2012, p. 4)

e) **Site 34** in Te Hoiere is near a wāhi tapu/site of significance for Ngāti Kuia. Ngāti Kuia have a very high cultural interest in this site, not only is it at the entrance to Te Hoiere, it is the place of **Te Ana O Kaikaiawaro**. Traditional practices around this site include navigation, koha, tapu and utu. Ngāti Kuia expect that this site is treated as a wāhi tapu and suitable mitigation measures are discussed with Ngāti Kuia.

f) The Ngāti Kuia Deed of Settlement notes a number of people and relevant sites of significance:

...located on the spit **Te Akaroa**, (West Entry Point) was a pa site. The pa was located on a high narrow headland which dominated the approaches to Port Ligar. The name means ‘The Long Root’. This place features in a Ngāti Kuia lament for Tahunani, a tupuna....”. (Ministry of Justice b, 2010, p. 21)

AND

Pohuenui had several pa, kainga and cultivations and associated urupa. Kaitira had a pa site. Te Pouwhakarewarewa had a pa at **Orakitaite** and he sought refuge at **Kauaeroa**. He made peace with the iwi hou (*‘new people’*) here. **Ketu Bay** and **Wynens Bay** had kainga and were part of the **Punekerua** community in the 1840s. Some of our people were baptised at a chapel here. Pa and associated kainga were also at **Kopua/Kopaua?** (Richmond Bay) and **Otuaki** (Tawhitinui Bay) (Ministry of Justice b, 2010, p. 20)

#### *Ngāti Toa Rangatira*

As noted above, the Crown acknowledges Ngāti Toa Rangatira as having a kaitiaki role in the poutiaki area that includes Te Hoiere, including Kenepuru Sound, Mahau Sound and Tennyson Inlet. (Ministry of Justice b, 2012, p. 68)

#### *Rangitāne o Wairau*

According to the agreed Historical Account, Rangitāne, under some duress, were paid £100 in 1856 for their interests in Te Tau Ihu and granted reserves in the Wairau district, though land south of the Wairau River was not sold by Rangitane in 1856. (Ministry of Justice c, 2010, p. 6)

## Issues, opportunities and suggested mitigation measures

This section considers issues, opportunities and suggested mitigation measures or expectations for the potential relocation and disestablishment of salmon farm sites. At the time of preparing the initial report, the nine specific potential relocation sites under investigation had only just been released and, during the initial round of hui, not all iwi had the opportunity to view or comment on specific sites. Therefore, further investigation is required to provide further comments on specific sites. That said, the literature review, particularly information from the immediate past NZKS applications, and the initial round of hui provided information sufficient to populate this section with initial information. This section will be updated as more information comes to light, particularly around site specific matters and as engagement continues with mana whenua, mana moana, tāngata whenua.

General issues with respect to salmon farming have been well canvassed and expressed through the immediate past NZKS applications. These issues were also expressed during the initial round of hui and in written communication that followed. These general issues and opportunities are discussed below followed by some site specific comments and then a table of suggested mitigation measures for each of the matters raised. It should be noted that the mitigation measures are suggestions only and subject to mutual agreement between mana whenua, mana moana, tāngata whenua, MPI and MDC. Further, not all mana whenua, mana moana, tāngata whenua consider or weight every issue or opportunity noted in this section and/or share all the views noted in this section. For example, some mana whenua, mana moana, tāngata whenua have no interest in exploring commercial opportunities around salmon farming. However, general issues and opportunities are not ascribed to any particular mana whenua, mana moana, tāngata whenua group but used to build up an overall picture of issues and opportunities relevant to this project. As noted above, site specific matters require further discussion with the relevant mana whenua, mana moana, tāngata whenua group(s).

### Issues, opportunities

The issues and opportunities identified in the literature review and initial round of hui are listed below.

### Timeframes, process

A number of iwi representatives in the initial round of hui highlighted that the time to go through any information provided was too limited. Most representatives were quick to note that their iwi had internal processes to follow in order to confirm a position with respect to matters such as this project and would be unable to respond in the initial timeframe. It is noted that the tight timeframe was further truncated by Maximize's own situation and capacity to begin the CIA research and preparation. Some also noted that they have their own processes in preparing a CIA (see next issue).

Iwi also noted that there are well established principles of Te Tiriti o Waitangi that should inform the CIA and the process used to develop and finalise the CIA. In practice, this includes ensuring genuine, meaningful Crown consultation and engagement on this project. This allows iwi to consider the project; confirm their perspectives, issues and opportunities; and discuss and ideally confirm appropriate mitigation measures.

It is noted that, while project timeframes remain tight, the CIA preparation takes place in the period before public consultation. MPI and MDC are comfortable to use the public consultation period for mana whenua, mana moana, tāngata whenua to review the CIA and provide any further updates.

This extends the opportunity for mana whenua, mana moana, tāngata whenua engagement to March 2017.

In terms of the Treaty relationship between the Crown and hapū/iwi, some iwi stressed that, while Te Tau Ihu Fisheries Forum ('TTIFF') has a role to play, care needs to be taken to ensure that TTIFF does not become the default iwi entity. The Crown has an obligation to engage directly with Te Tau Ihu iwi through, at the least, their iwi authorities rather than just with TTIFF. MPI has noted a commitment to work directly with the iwi authorities. It appears that there may communication breakdown between designated iwi representatives to TTIFF and their iwi authorities. Some concern was raised of the need to ensure that decision-making processes with TTIFF allows time for representatives to seek direction from their iwi authorities, who may similarly need to seek direction from iwi members.

### **Desire to engage directly with MPI**

Some iwi representatives expressed a preference to work directly with MPI, including preparing their own CIA, rather than engage fully in a Maximize facilitated process. Others were comfortable with Maximize's involvement, while others preferred a hybrid where Maximize prepared this CIA and the iwi provided more detailed, site specific information. As previously mentioned, it is recognised that neither Maximize, MPI nor MDC can compel mana whenua, mana moana, tāngata whenua to engage in this CIA process and, indeed, mana whenua, mana moana, tāngata whenua may have their own views regarding the CIA process with a preference to use their own capacity and capability to prepare their own CIA. At the very least it is hoped that the Maximize prepared CIA will inform and appropriately express general mana whenua, mana moana, tāngata whenua views on this matter and such specific views as mana whenua, mana moana, tāngata whenua are willing to share.

When it comes to consultation processes,

[t]he Deed of Settlement legislation for Te Tau Ihu ō te Waka ā Māui iwi provides statutory acknowledgement of local governing bodies to consult with each iwi in Te Tau Ihu ō te Waka ā Māui, on issues that arise as a result of the Treaty Settlements Process. This is in relation to any council activity such as the resource consent process. (Tiakina Te Taiao Ltd, 2016, p. 11)

### **Cultural issues**

Cultural issues are a significant area of concern for mana whenua, mana moana, tāngata whenua who have generally noted that their relationship with the coastal and marine environment is of the utmost importance in terms of maintaining relevant customs and traditions associated with the sea and for their role as kaitiaki of the coastal and marine environment. There is a real concern that the proposed project, in fact, any project in the coastal and marine environment, will severely inhibit cultural practices. There is concern at the human impact on the overall cultural 'space,' this is not necessarily site specific but an overall effect on the 'cultural landscape' of mana whenua, mana moana, tāngata whenua. This has the potential to risk the overall cultural connection and relationship that mana whenua, mana moana, tāngata whenua have with an area.

Mana whenua, mana moana, tāngata whenua have observed how the distribution of species changes in the vicinity of salmon farms, for example, an increased seal population around the farms attracted by the dense fish population. Mana whenua, mana moana, tāngata whenua perceive a lack of recognition and provision for the loss of any customary uses.

In summary these concerns are the project's impacts on generations of cultural practices including, but not limited to:

- **Kaitiakitanga** – mana whenua, mana moana, tāngata whenua take their kaitiakitanga responsibilities seriously. Generally, kaitiakitanga is the undertaking of kaitiaki responsibilities. Being a ‘kaitiaki’ carries with it the role and responsibility of mana whenua, mana moana, tāngata whenua to ensure that the mauri, or vital life essence, of their taonga is healthy and strong, in accordance with their tikanga (in this context, the traditional sustainable management practises). The role of a ‘kaitiaki’ includes the ethic of guardianship. There is a concern that this project risks undermining the ability of mana whenua, mana moana, tāngata whenua to undertake kaitiakitanga responsibilities.
- **Customary uses and practices** – on, in and under the coastal and marine environment. These customary uses and practices are wide ranging and partially explored below.
- **Mahinga kai/mahinga mātaītai** – all iwi have customary and contemporary practices of harvesting kai and other resources from throughout the areas under investigation. There is a concern that the project will impact on mahinga kai/mahinga mātaītai practices. This is of particular concern where whānau rely upon coastal and marine kai resources to sustain their whānau members (albeit supplemented from other food sources). A number of iwi commented on how all of the general areas under investigation were their ‘food basket’ and how they had accessed these areas to sustain their tribe for generations.
- **Manaaki tāngata** – closely linked to mahinga kai/mahinga mātaītai practices is the ability to show hospitality to visitors to the area or to provide a koha (donation, contribution) of kai from the rohe to specific events outside the rohe. Any activity that undermines the ability to show this hospitality through impacting on or depleting kai resources would severely impact on the mana/reputation of generations.
- **Taonga species** – are species that, for a variety of reasons, are of particular significance to mana whenua, mana moana, tāngata whenua. Previously mentioned is the significance of the Kawau or King Shag to Ngāti Kōata. Aihe (dolphin) are kaitiaki to Ngāti Kuia and so a Ngāti Kuia taonga species. Other species are valued for their use as kai and/or commercial return, such as the pāua, kōura, kina, and a variety of fish species. Anything that could impact the mauri of these taonga species should be avoided.
- **Traditional and contemporary waka routes** – for many, the regular or migratory navigation routes that tūpuna took are important and worthy of preservation. Mana whenua, mana moana, tāngata whenua still use the waters of the area for a variety of activities and so have contemporary waka routes. Still other iwi members have small low powered waka (e.g. waka tūpuna, ‘clinker’ row boats, small motor waka/vessels). Any use of these traditional and contemporary routes for anything other than waka navigation needs to be carefully considered. Ngāti Kōata note that, “[a]lthough these areas are intangible and we use modern day instruments for navigation the old waka routes are taonga to Ngāti Kōata as a result of the tapu nature of such routes.” (Tiakina Te Taiao Ltd, 2016, p. 16)
- **Wāhi tapu, sites of significance** – there are centuries long histories throughout the areas of interest which has seen hundreds of wāhi tapu, sites of significance, and/or archaeological sites (collectively ‘wāhi tapu’) established. Due to the passage of time, multiple mana whenua, mana moana, tāngata whenua groups often have wāhi tapu in the same area as the use and/or dominance of these groups has shifted over time. Regardless of the current dominant and/or recognised interest(s) in a particular area, it would be prudent to err on



the side of caution when considering who should be engaged in the event that the activity may impact on a single or a number of wāhi tapu.

In some cases, it may not be possible to determine which mana whenua, mana moana, tāngata whenua group established a particular wāhi tapu. Additionally, notwithstanding that the farms are marine based, there may also be previously unknown wāhi tapu sites discovered as a result of establishing or disestablishing sites. Further, there is unlikely to be one accepted approach to mitigating effects of salmon farming on wāhi tapu with some iwi stating that no destruction of wāhi tapu is acceptable in the context of the historical destruction and modification of multiple wāhi tapu. Still others may entertain a suitable approach to mitigation include offset mitigation, where, amongst other things, impacts on one area are offset by enhancements in another area.

### Access to waterways

This issue is linked to the above cultural issues. There is a concern that this project will diminish opportunities for acquisition of mooring and access to important areas. As mentioned above a number of iwi commented on how all of the general areas under investigation were their ‘food basket.’ Ongoing access to their food basket is critical for iwi identity, customary uses and practices, and ability to manaaki tāngata. In the areas where salmon farms are established, iwi members advise that access for customary and recreational users, including divers, is impeded and safety issues created through the increased seal populations in the area.

Some iwi still intend to apply for Customary Marine Title (‘CMT’) in the area, under the Marine and Coastal Area (Takutai Moana) Act 2011. However, the understanding is that any influence that holders of a CMT can exert does not apply until such title is granted. According to the Justice Department website, Ngāti Kōata are the only tribe to date to have applied for a CMT in the area of interest in Te Hoiere. The website notes that the Ngāti Kōata CMT application is currently undergoing Crown engagement. (<https://www.justice.govt.nz/maori-land-treaty/marine-and-coastal-area/applications/#southisland> [retrieved 13 September, 2016])

### Te mauri o te wai, water quality

Not surprisingly, water quality is a significant issue for mana whenua, mana moana, tāngata whenua. The mauri, or vital life essence and life supporting capability of the coastal and marine environment is extremely important to mana whenua, mana moana, tāngata whenua. Te mauri o te wai needs to be maintained in perpetuity to sustain and support the coastal and marine environment and abundance of indigenous species. Te mauri o te wai includes the clarity of the water column with taonga species, such as the Kawau (King Shag) requiring water clarity in order to fish or live and, therefore, survive. There is concern that the relocation of salmon farms will modify hydrological flows and other hydrological conditions in the marine and coastal environment. For mana whenua, mana moana, tāngata whenua, the sustainable management of all water environments is critical including, where necessary, the restoration and enhancement of water quality.

### Other ecosystem, environmental effects (including benthic environment)

Closely linked to water quality are other environmental effects, including the effect on the benthic environment. Relative to a more natural distribution of fish, there is concern at the concentration of fish in a marine farming context with the accompanying faeces, litter and food requirements. Iwi were concerned at the distribution plume of excess food and nutrient for the marine farms and the effect on the benthic environment, including reefs that hold a high ecosystem value. There is a

similar level of concern with any other discharges and/or contaminants associated with the operation of marine farms. There is concern that these effects will impact on the natural marine biodiversity as previously discussed (see comment on seal distribution, cultural issues and taonga species). There is some recognition that high flow, deeper sites may have relatively less environmental impact, however, this needs to be confirmed to the satisfaction of mana whenua, mana moana, tāngata whenua.

#### **Site establishment, disestablishment**

Mana whenua, mana moana, tāngata whenua are keen to avoid adverse effects from site establishment and disestablishment. Site integrity is important to ensure the site remains in place and includes avoiding, remedying or suitably mitigating adverse effects to the seabed from marine farm structures. Additionally, mana whenua, mana moana, tāngata whenua would like to fully understand the rationale for relocating sites, including any community, social and/or political reasons for potential relocation. Te Ātiawa provided specific site commentary for Tōtaranui noting that, subject to satisfying its concerns, Te Ātiawa were in favour of first removing the Otanerau site (Site G). Te Ātiawa also contend that Ruakaka (Site F) should remain unless there is a compelling reason to dis-establish that site.

Some mana whenua, mana moana, tāngata whenua groups are keen to consider alternative uses for sites that may no longer be used for salmon farming (e.g. other types of marine farming), subject to suitably addressing the effects of any alternative use. It has been suggested that any mana whenua, mana moana, tāngata whenua alternative use of a disestablished site could require the agreement of all eight iwi of Te Tau Ihu. However, there are varying views as to what should occur as part of investigating alternative uses for disestablished sites. (See also comments below regarding ‘opportunities for formal collaboration.’)

Mana whenua, mana moana, tāngata whenua consider the water space in the areas under investigation are premium spaces for a variety of reasons, as outlined in this CIA, and require convincing that the sites chosen to be established or disestablished are suitable. Mana whenua, mana moana, tāngata whenua are keen to ensure that any site relocation provides a better environmental and cultural outcome. This means ensuring that relocating the site does not merely shift the problems to another area.

#### **Cumulative effect**

Mana whenua, mana moana, tāngata whenua note that the areas of interest are already modified due to marine farming, other marine activity and land use (e.g. forestry). This has already negatively impacted on the marine and coastal environment. There is a concern at the cumulative effect of establishing/disestablishing salmon farms. It is recognised that the nett effect on the whole seascape may be minimal as there is no nett increase in surface area proposed. However, there is concern at localised effects, particularly if the underwater farm size were to increase or to have an increased environmental footprint. It is insufficient to consider the effects of the establishing/disestablishing farms in isolation of the receiving environment in which these activities occur. The cumulative effect of these activities, including the cumulative effect over time, should be clearly understood and suitably managed to avoid, remedy or suitably mitigate effects to a level that satisfies mana whenua, mana moana, tāngata whenua concerns. A specific concern raised regarding cumulative effect was in Onapua Bay (in Kura Te Au) where there is a perceived risk of increased toxic algal blooms in the area, along with associated toxicity and the risk to environmental, flora, fauna, and human health. It is considered that a contributing factor to the decline of environmental wellbeing and toxic algal blooms in Onapua Bay is the presence of forestry operations.

### Commercial fisheries

As mentioned above, tribes with commercial fisheries interests in the area are keen to understand what, if any, impact this project has on commercial fisheries interests, including the aquaculture settlement (see below), and to ensure that those commercial interests are at least protected. This may extend to having a longer term relationship with NZKS. This includes understanding what, if any, effect the salmon farming operation will have on other fisheries species that are commercially fished and suitably managing those effects. It is understood that any increases in salmon fishing revenue will have a corresponding increase in share to iwi through the aquaculture settlement.

Iwi are also concerned that the investigation of relocation options is being championed and advanced through MPI and MDC, likely with NZKS support, and yet the findings of the investigations will primarily benefit a publicly listed company, NZKS. There appears no formal opportunity for iwi to participate in or substantively benefit from the results of these investigations. For example, any new sites identified for relocation will not be offered to iwi or to open tender, but only made available to NZKS.

### Effect on aquaculture settlement

The aquaculture settlement is an extension of the fisheries settlement. The Crown and iwi worked together on the settlement that is composed of retrospective and prospective components (discussed below). There is concern that, during negotiations for the aquaculture settlement, iwi were unable to negotiate a suitable iwi allocation for salmon farming and, even if negotiations were successful, the aquaculture settlement provided insufficient resources to meet the necessary regulatory requirements to develop the salmon farms. Subsequent legislation change (*vis a vis* s.360A of the RMA) has provided a mechanism for aquaculture development not available or offered to iwi at the time of the aquaculture settlement.

This project appears to give NZKS an unfair advantage over iwi, particularly in light of political discussions to turn part of the Marlborough Sounds into a marine park, further limiting commercial opportunities for iwi. Mana whenua, mana moana, tāngata whenua wish to ensure that this project does not create any further treaty grievances or breaches for current or future generations to address.

### Retrospective settlement

Up to the settlement date (31 December 2004), a 20% cash settlement of the already consented aquaculture space was paid to Te Ohu Kai Moana ('TOKM') who were then to allocate the settlement to Iwi. This is the retrospective component of the settlement.

An outstanding issue is that the nine iwi in Te Tau Ihu, including Ngāi Tahu, have yet to receive their retrospective cash settlement due to the outstanding matter of a dispute between three iwi (Rangitāne ki Wairau, Ngāi Tahu, Ngāti Toarangatira) regarding overlapping interests in Clifford Bay. An iwi raised a concern that the six iwi that are not a party to the dispute are still awaiting their cash settlement. This iwi would prefer the issue is resolved, resulting in at least the aforementioned six iwi being paid their retrospective settlement, prior to salmon farm relocations being considered. The rationale for this request is that the relocation creates new aquaculture space and potential opportunities for iwi to purchase or invest in aquaculture space (for example, on the sites that will no longer be used for salmon farming). Funds from the retrospective settlement could be used in such an investment.

It could be argued that the aquaculture settlement and the relocation of the salmon farms are unrelated and that, with the payment of the retrospective settlement to TOKM, the Crown has

discharged its obligations regarding the retrospective component of the aquaculture settlement. However, an alternative argument is that the Crown decided to pay the settlement funds to TOKM, a non-Crown entity, as opposed to directly to relevant iwi. Te Tau Ihu iwi have not received the settlement funds and so could take the view that settlement has not been reached. It is suggested that this view is communicated to the Crown via MPI.

### *Prospective settlement*

Under the prospective settlement, it is predicted that aquaculture space would be created out to 2035 through the extension of existing farms and creation of new farms (farms for salmon, mussels, pacific oysters). This creates a new space obligation on the Crown under the aquaculture settlement. The arrangements to address prospective settlement are done under regional agreements with Mandated Aquaculture Organisations ('MAO'), who may also be Mandated Iwi Organisations ('MIO'). At the time of reaching agreement, a number of options existed. The forecasted space that could be available could be given BUT what is given is only an authority to apply to council for the right to use that space for aquaculture. There would be no guarantee that consented space would be granted for the applied use. Another option is a cash settlement could be given related to the forecasted value of the space. Finally, iwi could opt for a mixture of both. Reviews of forecast new space against actual new space made available for aquaculture growth is undertaken every five years. This review can be undertaken at an earlier interval. If granted, the proposed new salmon farm locations would be new space and subject to new space obligations. It should be noted that much, if not all of the proposed new salmon farms could be covered under the current forecast and any review would create 'unders' or 'overs' when considering forecast versus actual new space.

In Te Tau Ihu, the Marlborough Regional Agreement was largely a cash settlement with a small spatial settlement. Iwi did not have the risk appetite for being given authority to apply to use space without any guarantee that the ability to use the space would be granted. The cash settlement was for mussels and salmon. A number of iwi made the point that they considered it imprudent to exchange a cash settlement for the authority to apply to use the space. Any residual cash settlement could be consumed in the application process with no guarantee that an aquaculture application would be granted. Had more certainty been given that, all other things being equal, space granted to iwi could actually be utilised for aquaculture, iwi may well have been more amiable to taking space instead of cash in the aquaculture settlement. This issue is particularly relevant in light of the Minister being prepared to exercise powers under s.360A of the RMA to facilitate the availability of aquaculture space for salmon farming. (Discussed below) As previously mentioned, some iwi feel aggrieved at the exercise of these powers for the benefit of a private company. However, as mentioned earlier, the relocation of these farms should provide for better environmental outcomes.

### *Section 360A of the Resource Management Act (1991)*

Section 360A of the Resource Management Act (1991) ('RMA') was part of the 2011 aquaculture reforms. This section allows for the Minister to amend a regional coastal plan as it relates to the management of aquaculture activities in the coastal marine area. S.360A of the RMA will be the mechanism that the Minister uses to amend the Marlborough Sounds resource management plan, which is the operative regional coastal plan, to make new space available for salmon farming. As mentioned above, some iwi view this as an unfair advantage being given to NZKS as the new areas for salmon farms would not be available for iwi development but only for the use of NZKS. This will be by virtue of only being able to operate a salmon farm consent in the new space by surrendering

an existing salmon farm consent. This option was not available, nor offered at the time of the aquaculture settlement.

#### Monitoring and review

Mana whenua, mana moana, tāngata whenua expressed concerns over any uncertainty in the operation of the salmon farms, while also being aware of the need to operate farms so that they comply with the *Best Management Practice Guidelines*. Mana whenua, mana moana, tāngata whenua are also aware that best practice changes over time with advances in knowledge and technology. Additionally, monitoring will only be effective if there is an opportunity to review farm operation in the event that monitoring shows less than optimal farm operation. This could also include amending the *Best Management Practice Guidelines* as required. Mana whenua, mana moana, tāngata whenua expect to be involved in any monitoring and to be able to influence any review of farm operation, update to *Best Management Practice Guidelines*, and/or ensuring compliance with the *Guidelines*.

If not already included, updating the guidelines should also consider mātauranga Māori practices such as rāhui (placing certain limits and prohibitions on farm operation either permanently or for a period of time). Part of any review could ensure that the farms are operating to best practicable outcomes/guidelines and/or that plans are in place to improve operations so that the farms comply with best practicable outcomes/guidelines.

#### Opportunities for formal collaboration

Some iwi have no interest in being involved in salmon farming. However, *providing that* the aforementioned issues and concerns are avoided, remedied and/or mitigated to mutual satisfaction, other iwi have varying degrees of interest in exploring opportunities for commercial partnership and/or collaboration. This may also extend to direct investment in a site(s). Some iwi are very clear that they wish that some of the direct benefits of development in the marine space, including salmon farming, need to accrue to iwi. For the purposes of this statement, ‘direct benefit’ is beyond whatever benefits accrue to iwi as a result of the aquaculture settlement and general employment opportunities.

Potential iwi investment in salmon farms may lead to some tensions where more than one iwi wants to invest in a site. This may then lead to discussions over which iwi or group of iwi has a proprietary right to invest in a site, based on mana whenua, mana moana, tāngata whenua interests. However, it has also been suggested that any commercial fisheries benefit in the area needs to accrue to the iwi commercial collective arrangements in Te Tau Ihu and/or only accrue to individual iwi with the agreement of all of the iwi that make up Te Tau Ihu commercial fisheries collective. Understandably, there are varying views as to where commercial arrangements should lie and this will need to be discussed further. For example, individual iwi may expect that they are able to negotiate commercial arrangements without prior approval of any group, including other iwi. As previously mentioned, it is strongly recommended that MPI and MDC avoid any role in resolving such matters unless their involvement is specifically requested by all parties to the dispute.

It will be incumbent upon iwi with overlapping interests to resolve those overlapping interests. This may extend to formal agreements between iwi parties, NZKS, and others, as the case may be. It has already been noted that opportunities for formal collaboration might extend to exploring opportunities for alternative uses for any disestablished sites. Additionally, more formal relationships between mana whenua, mana moana, tāngata whenua and NZKS provide an opportunity to address any negative relationship legacy issues with NZKS and move forward to mutual benefit. It has also been suggested that a review be undertaken of the effectiveness of the

currently established NZKS tāngata whenua panels, though this suggestion is not universally supported across Te Tau Ihu Iwi.

### *Site specific issues*

As the development of the CIA progresses and mana whenua, mana moana, tāngata whenua have more time to consider the specific sites under investigation for relocation, there are likely to be site specific issues that need to be considered. Site specific issues are listed below:

#### *General site issues*

Mana whenua, mana moana, tāngata whenua may have specific reasons why one site should be preferred over another site for relocation or disestablishment. Some iwi have noted that, as the selection process is further advanced, they will need to hold hui-ā-iwi to test the preferred selection(s) with iwi members. Additionally, some iwi have noted that it is likely that their ability to be involved in a site would be a condition of any development at a site (assuming all other social, cultural, and environmental issues are suitably resolved).

#### *Site F Ruakaka in Tōtaranui*

Te Ātiawa contend that Ruakaka (Site F) should remain unless there is a compelling reason to dis-establish that site.

#### *Site G Otanerau*

Subject to satisfying its concerns, Te Ātiawa were in favour of first removing the Otanerau site (Site G).

#### *Site 34 in Te Hoiere*

Ngāti Kuia have advised that this site is near a wāhi tapu/site of significance for Ngāti Kuia. Ngāti Kuia have a very high cultural interest in this site, not only is it at the entrance to Te Hoiere, it is the place of Te Ana O Kaikaiawaro. Traditional practices around this site include navigation, koha, tapu and utu. Ngāti Kuia expect that this site is treated as a wāhi tapu and suitable mitigation measures are discussed with Ngāti Kuia.

Ngāti Kuia acknowledge that there is already mussel farming occurring near site 34 with proximity to Te Ana o Kaikaiawaro. However, Ngāti Kuia consider that mussel farming is significantly different to salmon farming by virtue of the fact that mussels are indigenous to the area, whereas salmon are introduced species. The establishment of a salmon farm in the area could be considered akin to introducing possums into Te Ana a Kaikaiawaro.

#### *Site 42 – Tipi Bay*

Te Ātiawa advise that this bay was once the site of whaling operations in the area. Many Te Ātiawa and other iwi found employment at this site. For example, many Rangitāne residing in the Picton and Endeavour Inlet area were employed in the whaling industry. Anecdotally, the operator of the site at the time went for consent to undertake whaling operations at another site. Te Ātiawa also went for consent to continue operations at Tipi Bay. The application from Te Ātiawa was unsuccessful and so whaling was abandoned at Tipi Bay. The current view on whaling is acknowledged. However, at the time, abandoning whaling at Tipi Bay would likely have had an uncertain but significant negative economic impact on Te Ātiawa (and, undoubtedly, any other iwi who had members employed at the site).

Subject to suitable resolution of other matters, there are two views regarding a potential salmon farm at Tipi Bay:



## FINAL – amendments may be suggested by submission to MPI

- a) It adds insult to injury to have Tipi Bay developed when Te Ātiawa (and potentially other Te Tau Ihu Iwi) were previously denied the opportunity to pursue commercial opportunity in the area. Salmon farming should not proceed at this site, unless
- b) Te Ātiawa and/or Te Tau Ihu Iwi were given the opportunity to directly benefit from any salmon farm at Tipi Bay. This requires further discussion to ensure a mutually agreed benefit and needs to be discussed in the context of previous comments about the place of Te Tau Ihu iwi collective and/or iwi groups and/or individual iwi in any discussions about where direct benefits should accrue. This presents a potential opportunity to bring Tipi Bay back to life for mana whenua, mana moana, tāngata whenua and, in some way, redress the historic loss from the abandoned whaling enterprise.

### Site 47 – Moioioi Island

It is suggested that this area is near an urupā and there are some concerns on the impact of discharge from the farms flowing past the urupā. Rangitāne advise that Moioioi Island was first inhabited during Ngāi Tara Rangitāne ‘fish hook wars’ with Ngāi Tahu. These were the people present during the time of Cook with the urupā dating from this period. (Bradley, 2016)

### Suggested mitigation measures

As previously mentioned, the mitigation measures outlined below are suggestions only and subject to discussion between mana whenua, mana moana, tāngata whenua; MPI and MDC.

Issue, opportunity	Suggested mitigation measures
<b>Timeframes, process</b>	<ol style="list-style-type: none"> <li>1. Continue to engage with mana whenua, mana moana, tāngata whenua during the public consultation period (up to March 2017), to confirm this CIA.</li> <li>2. Future drafts of CIA to consider and take into account the principles of Te Tiriti o Waitangi. This will need to be discussed further with mana whenua, mana moana, tāngata whenua to clarify the principles and the place of existing settlement legislation in considering alignment with the principles.</li> <li>3. Undertake second round of hui (per the outlined process) to further develop the CIA and investigate any site specific issues. (COMPLETED)</li> <li>4. Consider reviewing the Terms of Reference for Te Tau Ihu Fisheries Forum, having particular regard to communication with constituent iwi authorities and decision-making protocols.</li> </ol>
<b>Desire to engage directly with MPI</b>	<ol style="list-style-type: none"> <li>5. Maximize to connect MPI with those iwi that wish to pursue a different process to that suggested in this CIA without limiting the ability of those iwi to participate in this CIA process. (COMPLETED)</li> </ol>
<b>Cultural concerns</b>	<ol style="list-style-type: none"> <li>6. MPI to undertake an analysis of technical reports and provide a technical assessment of the project’s impacts on cultural concerns.</li> <li>7. In partnership with mana whenua, mana moana, tāngata whenua and resourcing mana whenua, mana moana, tāngata whenua involvement, MPI work to develop and implement a Cultural Health Indicators/Index (‘CHI’) framework for the project. This includes monitoring and enforcement measures to ensure the project’s impact on the overall cultural landscape, customary uses and practices, on the mauri of mahinga kai/mahinga mātaītai, taonga species, and other attributes noted below is within agreed limits when assessed against baseline data. (N.B. this includes CHI measures that assess how freely iwi are able to participate in traditional and contemporary cultural practices. This may also include the development of a ‘mauri model’ as part of or additional to the CHI framework). The development of a CHI framework may be</li> </ol>

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Issue, opportunity	Suggested mitigation measures
	<p>started during the public consultation process but will need to continue beyond the close of public consultation.</p> <p>8. Assess how traditional and contemporary waka routes will be impacted by the project (e.g. refer Attachment 1 of Elkington’s evidence to the NZKS hearing, attached to CIA as <b>Attachment 2</b>)</p> <p>9. If there is any potential impact on known wāhi tapu as a result of site establishment or disestablishment, undertake an assessment, with mana whenua, mana moana, tāngata whenua group(s) who have current and/or historical interests in an area and whose site(s) may be impacted to determine what, if any, suitable mitigation measures could be implemented.</p> <p>10. Develop and implement accidental discovery protocols in the event that site establishment or disestablishment impacts on a previously unknown wāhi tapu.</p> <p>11. Arrange site visit to a ‘typical’ salmon farm to understand how the farm operates including underwater and biodiversity issues.</p>
<b>Access to waterways</b>	<p>12. Include ‘access to waterways’ as a CHI assessment measure.</p> <p>13. As part of ‘access to waterways’ assess how/if increased seal populations in the area of salmon farms impact on customary and recreational users, including divers and avoid, remedy, and/or mitigate any impacts to a level suitable to, mana whenua, mana moana, tāngata whenua.</p>
<b>Te mauri o te wai, water quality</b>	<p>14. Include attributes to assess ‘te mauri o te wai’ as a CHI assessment measure.</p> <p>15. Ensure that effects on te mauri o te wai are avoided, remedied or mitigated to a level suitable to mana whenua, mana moana, tāngata whenua</p>
<b>Other ecosystem, environmental effects</b>	<p>16. Include attributes to assess ‘other ecosystem, environmental effects’ as a CHI assessment measure.</p> <p>17. Ensure that effects on the ecosystem and environment are avoided, remedied or mitigated to a level suitable to mana whenua, mana moana, tāngata whenua</p> <p>18. Provide mana whenua, mana moana, tāngata whenua with a comparison of the relative benefits of the existing low-flow sites with high-flow sites</p>
<b>Site establishment/disestablishment</b>	<p>19. Provide mana whenua, mana moana, tāngata whenua with technical reports that explain the rationale for disestablishing a site including any community, social, and/or political factors. (N.B: this may require further synthesising the information in the technical reports into a format suitable for mana whenua, mana moana, tāngata whenua)</p> <p>20. Where practicable, reach agreement with mana whenua, mana moana, tāngata whenua on site establishment and disestablishment, including but not limited to agreeing that there is a nett benefit in relocating the sites.</p> <p>21. Demonstrate how the sites to be established will maintain site integrity, and avoid, remedy, or mitigate any adverse effects to the seabed.</p> <p>22. Provide mana whenua, mana moana, tāngata whenua with a site disestablishment plan that clearly outlines how the site will be restored.</p> <p>23. Provide mana whenua, mana moana, tāngata whenua with opportunities to investigate alternative uses for sites to be disestablished (see 29).</p>
<b>Cumulative effect</b>	<p>24. Include attributes to assess ‘other cumulative effects’ as a CHI assessment measure. (See mitigation measure below regarding monitoring and review)</p> <p>25. Understand and suitably avoid, remedy, or mitigate any risks in and around Onapua associated with toxic algal blooms.</p>
<b>Commercial fisheries,</b>	<p>26. Iwi to understand and support the impact of this project on iwi commercial fisheries’ interests, including the aquaculture settlement.</p>



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Issue, opportunity	Suggested mitigation measures
<b>Effect on aquaculture settlement</b>	<p>27. Investigate a longer term, more formal relationship between NZKS and iwi with commercial fishing interests in the area that provides mutual benefit to parties to the formalised relationship.</p> <p>28. Test whether the prompt payment of funds related to the retrospective aquaculture settlement should or could occur before progressing the relocation of salmon farms (including amending the Marlborough Sounds resource management plan).</p> <p>29. Investigate opportunities to provide benefit back to iwi in the nature of the aquaculture settlement as a part of making regulations under s.360A of the RMA – e.g. sites no longer to be used for salmon farming are handed back to iwi that are interested to develop other aquaculture ventures (see 23).</p> <p>30. Test whether the project risks creating a contemporary Tiriti o Waitangi grievance or breach</p>
<b>Monitoring and review</b>	<p>31. CHI and consent conditions to provide for the opportunity for mana whenua, mana moana, tāngata whenua to be invited to meaningfully participate in monitoring and review of farm operation, regular updates to <i>Best Management Practice Guidelines</i>, ensuring overall compliance with the <i>Guidelines</i> (current and any future updates to <i>Guidelines</i>), and ensuring farms regularly update operations to meet best practicable outcomes/guidelines. (N.B: this includes allowing for mana whenua, mana moana, tāngata whenua to be resourced to participate in the monitoring and review process. This also requires that monitoring and review is undertaken in an area by the appropriate mana whenua, mana moana tāngata whenua group(s) rather than by group(s) without such interests in the area.)</p> <p>32. Consider and review effectiveness and efficiency of existing tāngata whenua panels including considering joining the panels together to better understand the entire fin fish farming process and associated issues, opportunities and mitigation measures. NOTE: that any review may suggest no changes to the current processes.</p>
<b>Opportunities for formal collaboration</b>	<p>33. Subject to resolution of the above issues, Te Tau Ihu commercial fisheries collective and/or interested iwi discuss opportunities for formal collaboration with MPI, MDC and/or NZKS for sites to be established or disestablished that ideally show direct benefits accruing to iwi.</p> <p>34. Iwi implement a process to resolve overlapping mana whenua interests where the overlapping interests are material and a barrier to exploring opportunities for collaboration. This includes formalising amongst iwi, as required, whether any direct benefits accrue to Te Tau Ihu commercial fisheries collective and/or to individual iwi or group of iwi.</p> <p>35. Confirm any resourcing requirements (time, expert advice, costs, etc) for mana whenua, mana moana, tāngata whenua to be involved in implementing and/or monitoring mitigation measures.</p>
<b>Site specific issues</b>	<p>36. <b>General</b> – allow for hui ā iwi, as required, to confirm wider iwi support for specific sites.</p> <p>37. <b>General</b> – clarify any other site specific issues with iwi (e.g. relative preference for disestablishing Ruakaka [Site ‘F’] compared with Ōtānerau [Site ‘G’]) having appropriate regard for legislation, including Deeds of Settlement and associated documents. This could include considering offset mitigation measures (e.g. restoration of nearby wāhi tapu sites).</p> <p>38. <b>Site 34</b> – work with Ngāti Kuia (and potentially other iwi) to confirm protocols for managing the effects of activity at this site on Te Ana O Kaikaiaawaro.</p> <p>39. <b>Site 42</b> – discuss options for developing Tipi Bay with Te Ātiawa, Te Tau Ihu commercial fisheries collective, and other mana whenua, mana</p>

Issue, opportunity	Suggested mitigation measures
	moana, tāngata whenua, as appropriate.
	40. <b>Site 47</b> – determine what effect, if any, a farm could have on the urupā in the area and work with mana whenua, mana moana, tāngata whenua to confirm suitable ways to avoid, remedy or mitigate the effects.

## Conclusion

The Ministry for Primary Industries ('MPI') is working with the Marlborough District Council ('MDC') to investigate options to relocate six salmon farms (four from Te Hoiere [Pelorous Sound] and two from Tōtaranui [Queen Charlotte Sound]) to more suitable sites in Te Hoiere and Kura Te Au (Tory Channel). MPI and MDC wish to understand the potential cultural and other effects on mana whenua, mana moana, tāngata whenua of relocating the sites. To do this, MPI worked with Te Tau Ihu Fisheries Forum and commissioned Maximize Consultancy Ltd to prepare this Cultural Impact Assessment ('CIA') for MPI. The CIA does not replace any statutory consultation processes required under the RMA.

This CIA was a report of findings, informed by a literature review of publicly available information regarding mana whenua, mana moana, tāngata whenua interests in the area; stated positions regarding marine matters; a series of one-on-one hui with mana whenua, mana moana, tāngata whenua groups; and attendance at a Te Tau Ihu Fisheries Forum Hui. Information confidential to a specific mana whenua, mana moana, tāngata whenua group was not included in the CIA. In some instances, mana whenua, mana moana, tāngata whenua have reserved comment until more specific site locations are known. It is expected that MPI and/or MDC will have discussions with specific mana whenua, mana moana, tāngata whenua groups about specific sites.

This CIA did not seek to determine who has mana whenua or mana moana over any area or waterway within Te Tau Ihu. The research undertaken shows the historical and widespread activity of each of Te Tau Ihu tribes (Ngāti Koata, Ngāti Kuia, Ngāti Apa ki te Rā Tō, Ngāti Toa Rangatira, Te Ātiawa o Te Waka-a-Māui, Ngāti Rangitāne o Wairau, Ngāti Tama ki Te Tau Ihu and Ngāti Rarua) in Kura Te Au (Tory Channel), Tōtaranui (Queen Charlotte Sound) and Te Hoiere (Pelorus Channel). Every tribe has at some point fished, had kāinga or pā (whether temporary or permanent), or is able to relate kōrero tūpuna in and around these waterways.

There are a number potential effects, issues and opportunities identified in the literature review and initial round of hui. This CIA also listed a number suggested mitigation measures that could mitigate the potential effects, issues and opportunities. Suggested mitigation measures are subject to discussion and approval by mana whenua, mana moana, tāngata whenua, MPI, and MDC. It is recommended that, as sites for relocation are further refined, MPI and MDC undertake site specific discussions with relevant mana whenua, mana moana, tāngata whenua groups. This is likely to include groups with current and/or historical interests in a site area.

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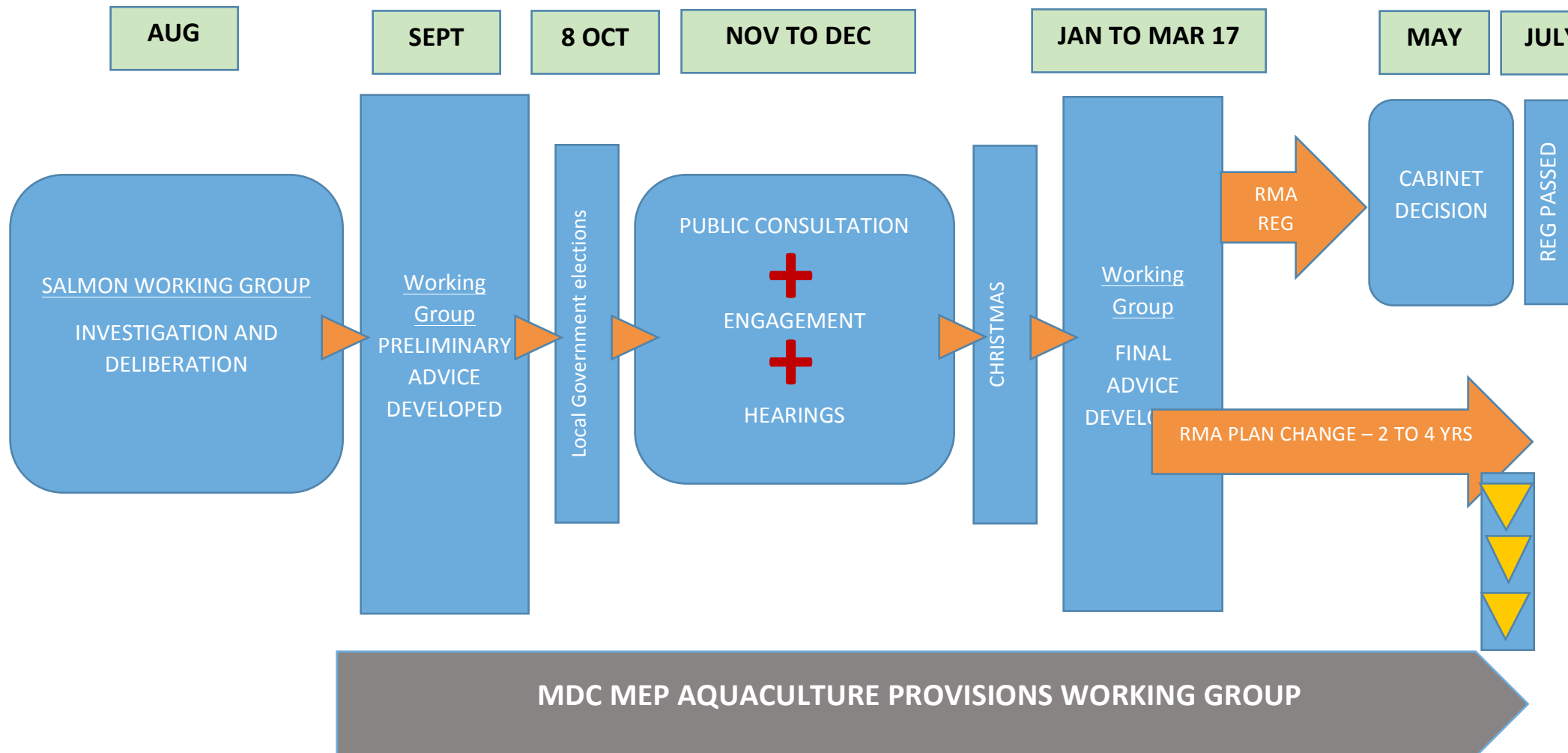
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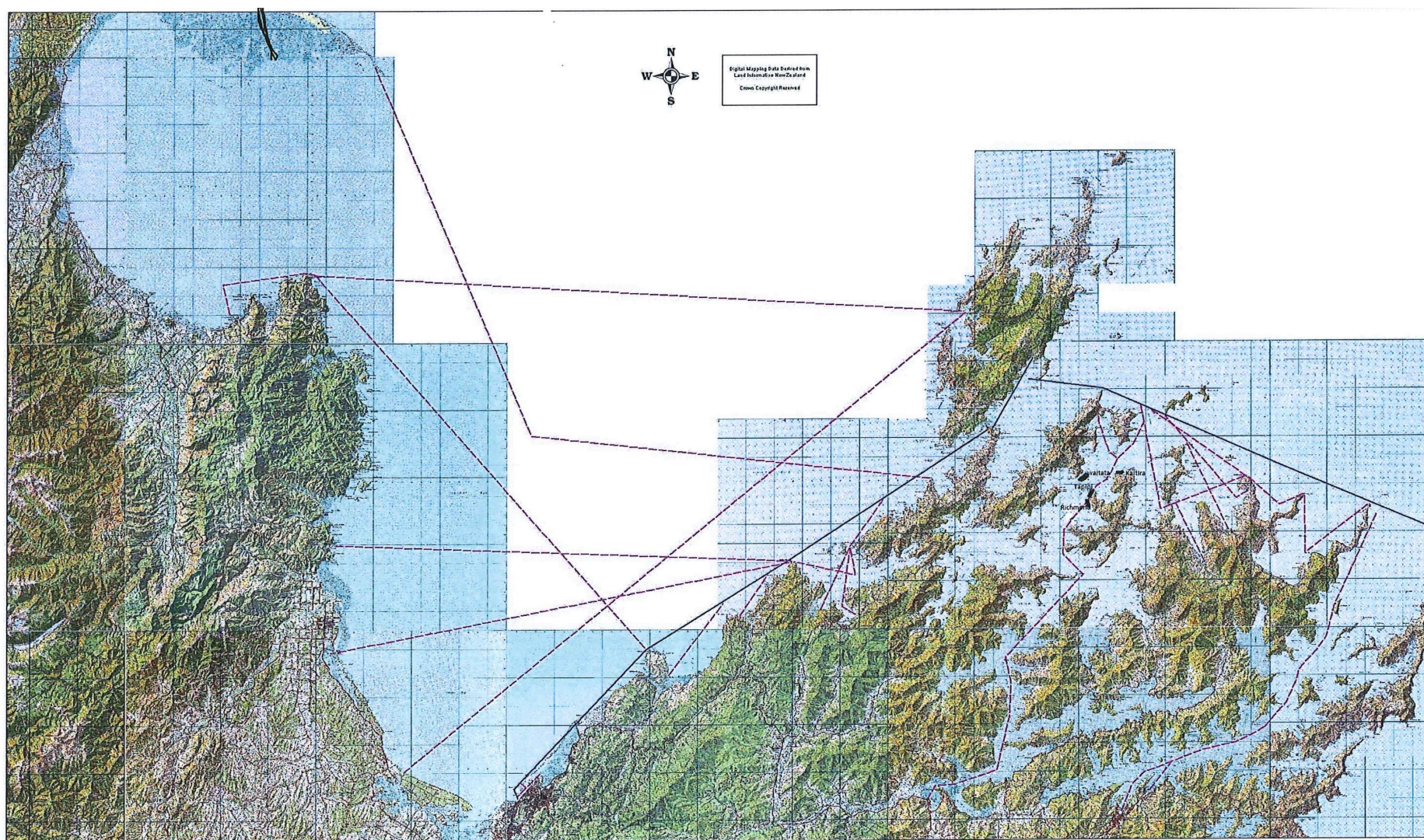
## Attachment 1: High Level Project Timeframe

### Working GROUP Process – RMA PLAN CHANGE OR RMA REGULATION





## Attachment 2: Traditional Ngāti Kōata waka routes



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