

Before Independent Hearing Commissioner appointed by Southland Regional
Council
at Invercargill

APP-20181316

under: the Resource Management Act 1991

in the matter of: Applications by Zane Smith and Jim Maass Barrett for
resource consents to establish three new marine farms
in Big Glory Bay, Stewart Island

by: **Sanford Limited**
Submitter

Memorandum of Counsel on behalf of Sanford Limited

Dated: 23 September 2019

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May it please the Commissioner:

INTRODUCTION

- 1 This memorandum addresses several follow-up issues raised at the hearing at Environment Southland on Monday 16 September 2019:
 - 1.1 Mr Chia and Mr Mandeno's details following their evidence given in place of Mr Culley;
 - 1.2 A copy of the Sanford salmon farm rotation plan;
 - 1.3 A summary of the role that MPI plays in approving marine farming activity and the scope of considerations open to the Commissioner under the RMA.

WITNESS DETAILS

- 2 Due to Mr Culley requiring hospitalisation on the 16 September, his evidence was given by Mr Chia and Mr Mandeno. Their details are as follows:

Mr Chia

- 3 Mr Chia's full name is Jit Hui (Clement) Chia.
- 4 He holds the position of Chief Operating Officer at Sanford Limited, based in Auckland.
- 5 He has been employed by Sanford for five years. From September 2014 to March 2018 Mr Chia was the Chief Financial Officer, before taking up the position of Chief Operating Officer.
- 6 Mr Chia has a Bachelor of Management Studies in management, accounting and economics. He is also a chartered accountant. He is a member of the Institute of Directors.

Mr Mandeno

- 7 Mr Mandeno's full name is Michael Alan Mandeno.
- 8 He holds the position of Mussel Farming Manager at Sanford Limited, based in Havelock.
- 9 He was employed by Sanford from 1999 to 2007 and returned to Sanford to take up his present position in January 2019.
- 10 Between 2007 and 2019, Mr Mandeno worked at Aquaculture New Zealand, Cawthron Institute and Seafood Innovations Limited.
- 11 Mr Mandeno holds a Bachelor of Science majoring in zoology and a Masters in Science Majoring in Marine Science.

SANFORD ROTATION PLAN

- 12 At the hearing, the Commissioner requested a copy of the Sanford farming rotation plan. A copy of that plan is **enclosed** alongside this memorandum. Please note, this is subject to change from time to time as required for operational reasons.

ROLE OF MPI

- 13 At the hearing the Commissioner requested submission on the role of MPI in marine farm consenting.
- 14 As the issuer of a coastal permit for aquaculture activities, the consent authority must consider all of the matters set out in s104 Resource Management Act. There is no component of the coastal permit decision for aquaculture activities that lies with the Ministry for Primary Industries (MPI).
- 15 Separately, after a coastal permit is granted, the regional council must forward a copy of the decision to the chief executive of MPI and request an aquaculture decision from MPI under Part9A, Subpart 1 of the Fisheries Act 1996. This aquaculture decision is a determination that the coastal permit will not have an undue adverse effect on recreational, customary and commercial fishing.¹
- 16 In making the determination, s186GB Fisheries Act specifies MPI must have regard only to the following matters:
- 16.1 The location of the area that the coastal permit relates to in relation to areas in which fishing is carried out;
 - 16.2 the likely effect of the aquaculture activities on fishing, including the proportion of any fishery that would be affected;
 - 16.3 the degree to which the aquaculture activities would exclude fishing;
 - 16.4 the extent to which fishing for a species in the area that the coastal permit relates to can be carried out in other areas;
 - 16.5 the extent to which the occupation of the coastal marine area authorised by the coastal permit will increase the cost of fishing;

¹ Fisheries Act 1996, s186C; see *SMW Consortium (Golden Bay) Ltd v Chief Executive of the MOF* [2013] NZCA 95, at [60]

16.6 the cumulative effect on fishing of any authorised aquaculture activities.

Date: 23 September 2019

J M Appleyard / A Hill
Counsel for Sanford Limited