Location of proposed 'Blue Endeavour' open ocean site
New Zealand King Salmon has lodged an application with MDC to place an open ocean farm, 7km north of Cape Lambert in the Cook Strait. They have called this site Blue Endeavour. The application for a 35-year resource consent and was publicly notified by MDC on Friday, October 18. There are eight weeks available for public submissions with a closing date of 16 December 2019.

Submission

Resource Management Amendment Bill

November 2019

About the McGuinness Institute

The McGuinness Institute was founded in 2004 as a non-partisan think tank working towards a sustainable future for New Zealand. Project 2058 is the Institute's flagship project focusing on New Zealand's long-term future. Because of our observation that foresight drives strategy, strategy requires reporting, and reporting shapes foresight, we developed three interlinking policy projects: *ForesightNZ*, *StrategyNZ* and *ReportingNZ*. Each of these tools must align if we want New Zealand to develop durable, robust and forward-looking public policy. The policy projects frame and feed into our research projects, which address a range of significant issues facing New Zealand. The six research projects are: *CivicsNZ*, *ClimateChangeNZ*, *OneOceanNZ*, *PublicScienceNZ*, *TacklingPovertyNZ* and *TalentNZ*.

The Institute's key interest in this submission is in terms of risk management, assessment of economic and environmental effects, the precautionary approach and long-term strategic thinking for the benefit of New Zealanders, especially in light of the climate crisis. The Institute sees the effective use, management and protection of New Zealand's resources as critically important if New Zealanders today wish to deliver future generations a sustainable future.

About the author

Wendy McGuinness, Chief Executive Wendy McGuinness wrote the report Implementation of Accrual Accounting in Government Departments for the New Zealand Treasury in 1988. She founded McGuinness & Associates, a consultancy firm providing services to the public sector during the transition from cash to accrual accounting from 1988 to 1990. Between 1990 and 2003, she continued consulting part-time while raising children. Over that time she undertook risk management work. In 2002, she was a member of the New Zealand Institute of Chartered Accountants (NZICA) Taskforce, which published the Report of the Taskforce on Sustainable Development Reporting. From 2003– 2004 she was Chair of the NZICA Sustainable Development Reporting Committee. In 2004 Wendy established the McGuinness Institute in order to contribute to a more integrated discussion on New Zealand's long-term future. In 2009 she became a Fellow Chartered Accountant (FCA).

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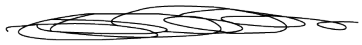
To whom it may concern,

The McGuinness Institute welcomes the opportunity to respond to the Resource Management Act Amendment Bill consultation.

The Institute wishes to make an oral submission to the Committee.

Please do not hesitate to contact me if you have any questions or would like to discuss any of this research in further detail.

Yours sincerely,



Wendy McGuinness
Chief Executive

Attachments:

Appendix 1: *Discussion Paper 2019/01 – The Climate Reporting Emergency: A New Zealand case study* (October 2019)

Appendix 2: Correspondence between Ministry for Primary Industries (MPI) and McGuinness Institute (31 July 2019)

Appendix 3: *Working Paper 2017/02 – Letter to the Minister on New Zealand King Salmon: A review of the Ministry for Primary Industries proposal on the potential relocation of salmon farms in the Marlborough Sounds* (May 2017)

Introduction

In the context of the climate crisis, the Resource Management Act Amendment Bill provides an opportunity to ensure the Act is future-focussed and fit for purpose, particularly given the effects climate change will have on New Zealand's planning processes. We note that the purpose of the amendment, as stated in the explanatory note 'provides a number of improvements and clarifications to existing RMA processes in relation to resource consents, compliance and enforcement, and Environment Court matters'. Our submission puts forward some areas for further improvement.

As part of our project *ClimateChangeNZ*, the Institute has been focusing on strengthening our reporting frameworks – which form the basis of our information infrastructure – to assist in mitigating and adapting to climate change. The key document in this project is *Discussion Paper 2019/01 – The Climate Reporting Emergency: A New Zealand case study* (Appendix 1 to this submission).

Below we outline four key issues for consideration by members of the committee.

Issue 1: The need for carbon emissions and removals, and internal carbon pricing to be integrated into RMA legislation (section 32)

Our *Discussion Paper 2019/01 – The Climate Reporting Emergency: A New Zealand case study*, discusses amending the Resource Management Act 1991 to encourage carbon pricing (see Appendix 1):

> One possible mechanism is for applications under the RMA to require entities/individuals to run a carbon pricing assessment as part of the cost benefit assessment. Currently, s 7 the RMA requires all entities and persons who exercise power to factor in climate change into their decision-making processes, but this could be extended to include a requirement to add a carbon price under s 32 (McGuinness Institute, 2019, p. 28).

The proposed updated s 32 of the RMA currently reads as follows:

> (2) An assessment under subsection (1)(b)(ii) must—
> (a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—
> (i) economic growth that are anticipated to be provided or reduced; and
> (ii) employment that are anticipated to be provided or reduced; and
> (b) if practicable, quantify the benefits and costs referred to in paragraph (a); and
> (c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.

One could argue this does not necessarily require a legislative change but we believe that given the climate emergency, there are benefits to incorporating this requirement into law.

The purpose of setting internal carbon prices is best understood in terms of Joseph E. Aldy and Gianfranco Gianfrate's *Harvard Business Review* article, 'Future-Proof Your Climate Strategy', published earlier this year:

> Internal carbon pricing allows companies to place a monetary value on emitting a ton of carbon, even when few or none of their operations are currently subject to external carbon-pricing policies and related regulations. Companies use internal pricing in three key ways: to inform decisions about capital investments (especially when projects directly affect emissions, energy efficiency, or changes in the portfolio of energy sources); to measure, model, and manage the financial and regulatory risks associated with existing and potential government pricing regimes; and to help identify risks and opportunities and adjust strategy accordingly' (Aldy & Gianfrate, 2019).

Issue 2: Intent behind 'national significance' needs to be strengthened and complied with (part 6AA)

There is general consensus that there needs to be an overarching strategy, framework and pathway for aquaculture in New Zealand. However we believe the current legislation prevents the delivery of this opportunity.

This is best understood in terms of New Zealand King Salmon's (NZKS) series of applications. We believe that the full package of applications should be assessed as a whole.

The desire for an overarching strategic approach is evident in the following two quotes:

(a) The New Zealand Labour Party & New Zealand First state in their coalition agreement that they (as a priority):

> Recognise the potential for aquaculture in promoting regional economic growth. (24 October 2017)

(b) The New Zealand Government Aquaculture Strategy states:

> We have the opportunity to develop and implement a world-leading framework for managing open ocean development, and ensure it integrates with existing uses and values. This will be a critical part of our work programme. (New Zealand Government, p. 5)

At the moment Marlborough District Council (MDC) is hearing plans to extend a salmon farm separately from other NZKS plans to develop open ocean farm sites (what NZKS call 'Blue Endeavor'). At the same time another application is before the Minister to relocate some farms. The process has become fragmented, disjointed and messy.

We had expected NZKS to put forward a proposal that looks at all the farms (moving and expanded) and potential farms (i.e. offshore) under one application of 'national significance'. Instead, the community and experts are having to look at each application in isolation. This not only places unnecessary strain on MDC and other stakeholders, it also prevents the opportunity for New Zealand to develop an integrated, and long-term strategic approach as envisaged under legislation.

We believe an overarching approach is important for the following five reasons:

- Ocean farming is a completely new method of farming in New Zealand. It will create new economic opportunities and bring in new technologies (see front cover of this submission).
- NZKS are applying for a permit to farm salmon offshore for 35 years – that means the year 2055.
- Ocean farming (as distinct from inshore farming) will be a useful mechanism to protect our inshore areas that are becoming increasingly fragile given the rise in water temperatures.
- The moving and hopefully over time, the removal of inshore farms needs to be part of the decision-making process for potential open ocean farm sites, so that we meet the wider intent of the RMA.
- The current process is ignoring this opportunity to develop an overall aquaculture strategy.

This Bill provides an opportunity to create a framework to manage the process of making national decisions, particularly as this is a completely new process to New Zealand. To help provide a deeper understanding of the issues involved, we have attached an email to MPI, dated 31 July 2019 (attached as Appendix 2).

Issue 3: Misuse of the intent of the legislation (backdoor use) (section 360A)

The Institute was involved in a hearing in response to an application from NZKS to relocate existing permitted salmon farms, in which we raise concerns over s 360A of the RMA. We have outlined our concerns in a letter to the Minister (see Appendix 3 attached). The following excerpt explains our proposed changes:

> Based on the terms of reference of the panel, it reads as though the goal for the panellists is to find a way to achieve the government's aquaculture goal within the current law, rather than asking the panel to make the best decision for New Zealand. The panel is required to undertake a very narrow and specific task in contrast to what the former Board of Inquiry was required to consider – which was the national interest under section 142 (3).
>
> The Terms of Reference for Marlborough Salmon Farm Relocation Advisory Panel state:
>
> *The Panel will provide an independent report and recommendations to the Minister on the comments received through this consultation process on the proposed regulations. The report may frame up options for the Minister, as opposed to recommending one approach. It is possible that there may be various combinations of the sites and/or alternative rules (including conditions/standards) which meet the* ***requirements of the RMA, achieve the Government's policy for aquaculture*** *(and give effect to the identified objectives) as well as addressing issues raised in the comments. […]* [bold added]
>
> *The Panel will need to test the material before it,* ***keeping in mind*** *the provisions of the Government's policy for aquaculture and the RMA.* [bold added]
>
> The difference in treatment of these two proposals brings into question the integrity of MPI resource management processes. It suggests that section 360A is being used as a backdoor in 2016 because the front door in 2011 (section 142) did not work. This manipulation of the Act undermines the intent behind the legislation and, as a result, erodes public trust. Given the above, we believe that the 2016 proposal is as nationally significant as the 2011 proposal, and should be treated with the high level of due diligence it deserves (McGuinness Institute, 2017, p. 5).

Issue 4: Fees should be significantly increased (section 360(bb))

There are two ways to improve compliance, firstly, ensure infringement fees are significant and secondly, ensure that infringements are made public.

We would like to see the infringements fees increased further and that there is sufficient resources and powers for adequate regulation (policing) of the law.

Furthermore, we would like all RMA infringements to be listed in an organisations annual report. There is a precedent for this. An example of a regulatory body ordering the inclusion of non-financial RMA-related information in an annual report is the case of Auckland Regional Council v Nuplex Industries Ltd. Nuplex was fined for air pollution convictions and, in a legal first, subsequently ordered to publish details of its conviction and penalty in its Annual Report.