

## SUBMISSION ON NEW ZEALAND KING SALMON'S PROPOSAL

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THE MARLBOROUGH DISTRICT COUNCIL (**Council**) makes this submission on the proposal dated 3 October 2011 lodged with the Environmental Protection Authority (**EPA**) by The New Zealand King Salmon Co. Limited (**Applicant**) for two plan changes to the Marlborough Sounds Resource Management Plan (**MSRMP**) and nine resource consents for salmon farms and salmon farming at nine sites in the Marlborough Sounds (**the proposal**).

The Council welcomes this opportunity to comment on the proposal by the Applicant. The Council has carefully considered the content of the proposal and supporting Assessment of Effects on the Environment (**AEE**). The lodgement of the proposal with the EPA, and the subsequent direction from the Minister that the matter be referred to a Board of Inquiry for decision, means that the Council does not have the usual regulatory role in considering and making decisions on the plan changes and resource consent applications. The Council finds itself in the unusual role of being a submitter on the proposal, and will appear at the forthcoming hearing in that capacity. However, the Council remains open to receiving further information and engaging in discussions and expert caucusing on the areas of concern as noted below.

**1 THE SPECIFIC PARTS OF THE PROPOSAL THAT THE COUNCIL'S SUBMISSION RELATES TO ARE:**

1.1 The submission relates to the Applicant's proposal in its entirety.

**2 THE COUNCIL'S SUBMISSION IS AS FOLLOWS:**

2.1 The Council opposes the Applicant's proposal in full on the grounds stated below, and seeks that all aspects of the proposal be declined.

2.2 The Council expressly reserves the right to respond to any further matters arising from a review of the Applicant's evidence and any further documents lodged by the Applicant prior to, and during, the hearing.

**Overview of Council's Concerns**

2.3 The Applicant's proposal is contrary to Part 2 of the Resource Management Act 1991 (**RMA**) as:

2.3.1 It does not promote the sustainable management of resources;

2.3.2 It does not enable people and their communities to provide for their social and cultural wellbeing;

2.3.3 It does not maintain or enhance amenity values or the quality of the environment; and

2.3.4 It does not avoid, remedy or mitigate adverse effects on the environment.

2.4 The Council is concerned that the Applicant's proposal will have significant adverse effects on the environment, including adverse cumulative effects.

2.5 The Council has particular concerns regarding:

- 2.5.1 The appropriateness of the proposed creation of a new Coastal Marine Zone to enable the Applicant's proposed activities, and its integration into the balance of the MSRMP.
  - 2.5.2 The appropriateness of the activity classification proposed by the Applicant in respect of its proposed activities.
  - 2.5.3 The Applicant's assessment of the potential impacts of the proposed activities on landscape values and competing uses and precedent effect of this application.
  - 2.5.4 The Applicant's assessment of the potential impacts of the proposed activities on the benthic flora and fauna as well as those that inhabit the water column.
  - 2.5.5 Potential navigation impacts of the proposal have not been properly assessed.
  - 2.5.6 The adequacy of the consultation undertaken by the Applicant in respect of the proposal. In particular, the Council has concerns regarding the notification of the Applicant's proposed plan changes.
  - 2.5.7 The necessity for the Applicant's proposed plan changes, given that marine farms (including those owned by the Applicant) have been able to be established under the existing MSRMP.
  - 2.5.8 The potential need for coastal occupancy charges is not addressed by the proposal.
  - 2.5.9 The absence of any certain economic benefit to Marlborough from the proposal.
- 2.6 Without derogating from the generality of the above, the Council further states that:

#### **New Coastal Marine Zone**

- 2.7 The Council is concerned that the Applicant's proposal to create a new Coastal Marine Zone is inconsistent with, and contrary to, the community based planning processes that resulted in the current MSRMP. The full history of the development of those provisions, extent of community input and balancing of competing uses and processes to establish the current provisions must be taken into account.
- 2.8 In particular, the Applicant's proposal does not provide the public with an opportunity to undertake a holistic review of marine farming in the Marlborough Sounds. Rather, the Applicant's proposal seeks to amend the MSRMP in an ad hoc and very limited manner that is solely for the Applicant's benefit.
- 2.9 The appropriate approach for any plan review process of this nature would include wider community involvement. It would not simply promote an

outcome where the 'best' sites that are currently prohibited for marine farming are reserved solely to the Applicant.

### **Integration of Applicant's proposals into the MSRMP**

- 2.10 The proposal provides for an amendment to the MSRMP. As noted above, the MSRMP was developed by the Council working through the various statutory processes and the historical development of marine farming. The integration of the proposal that seeks to provide solely for the Applicant's interests into the broader format and workability of the MSRMP as a whole document is an important issue. The proposal provides various inconsistencies in this regard. The proposed policies are also very specific. The Council's view is that the proposal represents an unbalanced focus towards the interests of specific salmon farming, above any other type of marine farming or competing use of the public resource.

### **Proposed activity classification**

- 2.11 The Council is concerned that the Applicant's proposal to amend the MSRMP (in particular, so that the Applicant's proposed marine farms and farming activities will be classified as controlled activities) unduly restricts the matters that should be properly addressed.
- 2.12 Only certain matters can be appropriately addressed or mitigated by lawful conditions imposed on a controlled activity consent. The activity is currently prohibited for sound resource management reasons. A change from prohibited to controlled status is a substantial step, which is not justified on a principled basis. If there is appropriate policy-based justification to uplift the prohibited status in certain areas, then the plan change should have provided for those activities on a discretionary basis so that all site-specific effects can be assessed, and applications declined in necessary circumstances. The decision made by the Applicant to seek a controlled activity status means that it should be declined.

### **Landscape issues**

- 2.13 The Council is concerned that the Applicant's proposal will have significant adverse effects on the landscapes surrounding the proposed marine farms.
- 2.14 While the applicant's AEE includes an assessment of the potential effects of the proposed marine farms on the adjacent landscapes, the Council is concerned that the Applicant's assessment is deficient. The assessment fails to address the wider context of each site. A broader approach to the landscaping assessment is required. It is necessary to assess potential significant natural areas affected by the proposal and a more detailed assessment in terms of section 6(b) of the Resource Management Act 1991.

### **Benthic and water column impacts**

- 2.15 The Applicant's AEE acknowledges the potential adverse effects of the proposed marine farms on the benthic flora and fauna, as well as those that inhabit the water column. The Council is concerned that these potential adverse effects outweigh the benefits of the proposed marine farms.

- 2.16 In particular, the Council is concerned that the lag between the adverse effects occurring and their identification through monitoring may mean that adaptive management responses will not remedy the effects in a timely manner (if at all).

**Other users, notification and precedent effects**

- 2.17 The Council is concerned that the Applicant's proposal seeks to amend the MSRMP for the benefit of the Applicant alone. The Applicant's proposal does not propose to change the objectives and policies of the MSRMP for the benefit of the wider community (including other marine farm operators). The plan change would accordingly provide an inappropriate balance within the MSRMP.
- 2.18 There has been no prior consultation with other users or interests, no draft proposal available for comment and no opportunity for wider debate and input, as would be the normal process for any plan change initiated by the Council. Furthermore, the Council is of the view that notification of the Applicant's proposed plan changes was inadequate. When a proposed plan change is administered by the Council, the Council ensures that every rate payer within the Marlborough District is notified. In this regard, the Applicant's lack of consultation has been exacerbated by inadequate notification of the Applicant's proposed plan changes.
- 2.19 The Council is concerned that the Applicant's proposal will set a precedent for other similar private plan change applications that seek to further compromise the prohibited activity status by ad hoc changes that are designed solely for the benefit of particular applicants. That represents an inefficient and inappropriate approach to any review of the balancing of competing interests. Particularly, given that the existing MSRMP provides a framework that has enabled numerous marine farms to establish without the need for 'salmon specific' provisions:
- 2.19.1 the existing provisions of the MSRMP relating to marine farms already can accommodate additional salmon farms in suitable parts of the Marlborough Sounds;
  - 2.19.2 there is space still available for salmon farms in the areas set aside for aquaculture activities in the Marlborough Sounds; and
  - 2.19.3 resource consent applications have been received to convert existing mussel farms into salmon farms, which is an alternative option already open to the Applicant that does not require a plan change.
- 2.20 The Applicant's proposal does not assess the potential impact of the settlement of iwi claims on the particular areas affected by this plan change and application for resource consents. The settlement of iwi claims has resulted in the proposed gazettement of a number of sites, some in the prohibited areas. This may provide a precedent for other claims, which has not been addressed in this proposal.

## Navigation

- 2.21 The proposal fails to provide an adequate assessment of navigational issues, relating to both risks from the proposal on the navigation of vessels and the impact of vessels interfering with the salmon farm operations.

## Coastal occupancy charges

- 2.22 The proposal does not address whether appropriate coastal occupancy charges should be imposed for the proposed use of public space for private economic benefit.

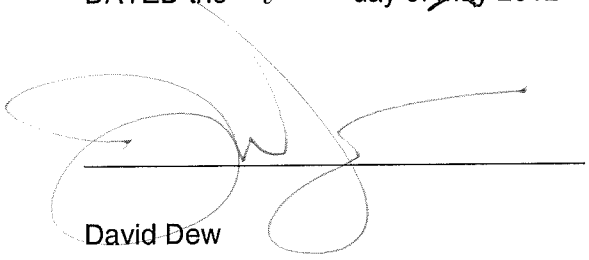
## Economic benefits

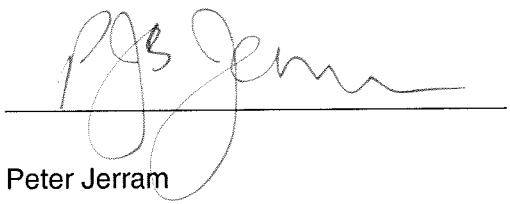
- 2.23 The proposal relies on economic benefits as part of the justification for the plan changes. However, those economic benefits may not directly accrue to Marlborough, particularly if the processing facilities are not located in Marlborough.


### 3 THE COUNCIL SEEKS THE FOLLOWING DECISION FROM THE BOARD OF INQUIRY:

- 3.1 That the Applicant's proposal be declined.
- 4 The Council wishes to be heard by the Board of Inquiry in support of its submission.
- 5 If others make a similar submission, the Council will consider presenting a joint case with them at hearing.

DATED the 16 day of <sup>April</sup>~~May~~ 2012

  
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David Dew  
Councillor  
Marlborough District Council

  
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Peter Jerram  
Councillor  
Marlborough District Council

A handwritten signature in black ink, appearing to read 'T. Hook', is written over a horizontal line.

Trevor Hook

Councillor

Marlborough District Council