

REPORT TO SOUNDS ADVISORY GROUP MEMBERS

SUBJECT: MARLBOROUGH SALMON WORKING GROUP REVIEW

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Introduction:

- 1) The Minister for Aquaculture has opened consultation regards the potential relocation of up to six New Zealand King Salmon farms under S360a-c of the RMA. The decision follows receipt of the Advice to the Minister of Aquaculture from the Marlborough Salmon Working Group.
- 2) Judy Hellstrom, Rob Schuckard and Eric Jorgensen were nominated by Marlborough District Council to represent Sounds Advisory Group in the Marlborough Salmon Working Group. This debrief is prepared for Sounds Advisory Group members. It follows verbal updates at Sounds Advisory Group meetings through the second half of 2016. This report marks the completion of the Groups' work¹ (which included provisional advice to the Minister of Aquaculture on potential relocation and consultation options) and its' subsequent disbandment.
- 3) This report provides an overview of the Sounds Advisory Group members' collective opinions of the process they have worked through and next steps. Ordinarily the feedback would be provided at a meeting of the Sounds Advisory Group however the timing of the next meeting precludes this occurring.
- 4) In summary the report addresses;
 - a) The work was very rushed and lacked due process and checks and balances throughout, particularly with regards to assessment of alternatives for future salmon farming rather than relocating the farms within the Marlborough Sounds and ability to meaningfully analyse and question technical reports.
 - b) A number of the technical reports were distinctly lacking in scope and, therefore, conclusions drawn remain questionable.
 - c) As such, the Advice to the Minister of Aquaculture is based on incomplete information.
 - d) *Nonetheless, the Advice to the Minister of Aquaculture **does** draw attention to important Part II matters that, if raised through consultation, must be consider as part of any final decision.*
 - e) Of the nine potential sites assessed all members of the Marlborough Salmon Working Group without affiliations to the industry (and excluding MPI staff) were of the opinion only three should proceed to consultation.
 - f) While consultation principles were touched on by the group no recommendations for any consultation process was put forward and that decision, the consultation process, has been made by the Minister.
 - g) Project steps tabled by MPI included Marlborough Salmon Working Group engagement in the process up to and including public consultation and final advice (to the Minister). This changed without warning or discussion.
 - h) The decision to consult utilising s360a-c of the RMA and the timeframes allowed both conspire to severely limit meaningful public engagement in the process.

¹ See report <http://www.mpi.govt.nz/news-and-resources/consultations/marlborough-salmon-relocation/> (Marlborough Salmon Working Group advice report

- i) Further, to use s360a-c the analysis of of existing economic and environmental performance of the operative low-flow sites must be considered as a matter of national or regional significance. This is questionable.
- 5) The remainder of this report provides further details regarding;
- a) Why the Marlborough Salmon Working Group was formed,
 - b) Sounds Advisory Group participation in that,
 - c) The process by which the Advice Report to the Minister was authored,
 - d) A broad overview of perceived strengths and weaknesses of that report, and
 - e) A broad overview of the perceived strengths and weaknesses of the consultation process adopted by the Minister.

Background:

- 6) In June 2016, the Ministry for Primary Industries (MPI) requested from the Marlborough District Council (MDC) three persons be nominated from the Sounds Advisory Group (SAG) to be on, what was to become known as, the Marlborough Salmon Working Group (MSWG), a multi-stakeholder working group tasked with collaboratively assessing options for the future of six New Zealand King Salmon farms. At the SAG meeting on June 21st 2016 SAG members nominated Judy Hellstrom, Rob Schuckard and Eric Jorgensen to fill those positions and MPI were duly advised of this.
- 7) The formation of the group was driven by MPI (and to a much lesser extent MDC) to assess whether New Zealand King Salmon farms presently not meeting Best Practice Benthic Guidelines could move to a state of compliance with those guidelines and, if not, determine whether there were other potential locations within the Marlborough Sounds where salmon farming may be appropriate.
- 8) The documented purpose (or objectives) of the MSWG were:
- a) to consider options for existing salmon farms in Marlborough to adopt the guidelines; and
 - b) to ensure the enduring sustainability of salmon farming in Marlborough, including better environmental outcomes including landscape, amenity, social and cultural values.

Marlborough Salmon Working Group Process:

- 9) The MSWG meet a total of ten times through 14th July September to October 28th 2016. The broad process *adopted*² was;
- a) Overview of existing, low-flow, salmon farms and options to comply with Benthic Best Practice Guidelines.
 - b) Site visits to existing and potential salmon farm sites in Pelorus and Tory Channel³.

² Note that the actual process deviated from the project steps and timeline prepared and tabled by MPI; particularly post-completion of the MSWG Advice Report to the Minister of Aquaculture.

³ The group has very little information on the process and supporting information that concluded the (nine) potential sites were potentially suitable.

- c) Initial technical analysis presented and discussion of conclusions drawn (SWOT analysis).
 - d) Drafting and finalisation of Advice to Minister report.
- 10) In and of itself, the process at a high level appeared reasonably robust however as we commenced our work SAG (and other) members of the MSWG identified several concerns, notably (with consequence in *italic*);
- a) Detailed actions for each major step were not fully known (or were not communicated) at the outset and, in terms of MSWG involvement the process was truncated.
 - i) *Little understanding of how each step linked and informed subsequent steps.*
 - ii) *Some, unresolved, matters were allowed to stand on the basis the MSWG would have continued engagement up to and including the writing of the final advice paper. This has not occurred and, in our view, particularly effects the entire consultation process and outcomes and, likely, the scope and veracity of final advice.*
 - b) The process was informed by up to eighteen technical reports prepared by external experts. Group members have not, to this day, sighted the Terms of Reference for the engagement of those experts nor for the scope of the reports themselves.
 - i) *Context of reports not fully understood.*
 - ii) *Too narrow a scope meant not all matters important to decision making assessed.*
 - c) The reports totalled some 1200 pages in total and were often very technical in nature.
 - i) *There was not sufficient time to fully comprehend all reports and report content.*
 - ii) *Reports continued to be altered/updated until very late in the process making overall assessment difficult with this 'moving target'.*
 - iii) *There remained some instances where the Advice utilised non-reconciled statements.*
 - d) The reports, in several instances, were authored by parties that gave evidence on behalf of NZKS at the Board of Inquire hearings.
 - i) *This, particularly when associated with above concerns, raises the issue of conflict of interest.*
 - e) Several reports were clearly lacking in scope.
 - i) *In some cases, review of the reports found significant omissions to scope (e.g. Social impact assessment only assessed impacts on neighbouring properties or those with line of site and no other users of the areas. Tourism and Recreation report only canvassed Tourism operators and DoC, not other recreational users of the Sounds and Navigational Safety did not canvass the Marlborough Harbour Master and the Economics report did not initially assess the financial performance of existing low-flow sites).*
 - ii) *This lack of scope meant findings of report potentially invalidated.*
 - iii) *Some reports were altered seemingly 'on-request' in response to specific matters raised.*

- iv) *A common response to lack of scope in reports was that those matters would 'be explored' through consultation. There can be no assurance that this will occur.*
 - f) Many reports (including bio-physical and economic reports) were only finalised very late in the process.
 - i) *Latest changes to technical reports were not robustly assessed.*
 - ii) *This meant the findings were largely inserted into the advice paper as summarised/outlined by MPI.*
 - iii) *This places significant reliance upon the expert caucusing scheduled to occur during consultation.*
 - g) MSWG members were unable to discuss the process, information received or deliberations outside of MSWG members during the process.
 - i) *Inability to canvass alternative experts may mean errors/incorrect conclusion may remain in advice that MSWG members have not recognised.*
 - ii) *Inability to canvass alternative experts meant technical reports (prepared as above, some with inherent weaknesses) remained as 'best information' and utilised for the Advice report.*
- 11) SAG members on MSWG wrote to MPI's Deputy Director General Sector Partnerships and Programmes on two occasions outlining, what they considered to be, matters of significant concern. At the conclusion of our involvement in the relocation process it is fair to say these concerns, remain unresolved and are as valid today as they were when first raised. Matters raised included unrealistic timeframes to properly consider technical reports, inability to 'test' tabled technical reports with experts outside of the MSWG, unreconciled information and statements and concerns with the approach to consultation process design.

Synopsis of Advice report content:

- 12) The Advice report to the Minister of Aquaculture addresses a number of the critical components required to provide that advice. It must be remembered the Advice report was produced to assist the Minister on determining whether that matters at hand should proceed to public consultation.
- 13) It must be noted that the Advice report does not address the second part of the MSWG's objective (*to ensure the enduring sustainability of salmon farming in Marlborough, including better environmental outcomes including landscape, amenity, social and cultural values*). The scope quickly narrowed to the NZKS low-flow farms and potential relocation sites.
- 14) Similarly, many areas of the report do not receive the attention and detail SAG MSWG members feel should be warranted. In particular, sections detailing;
- a) Options to implement Benthic Guidelines, including options for existing low-flow sites,
 - b) Other considerations and Risks, and
 - c) Assessment and analysis of different aspects/criteria for potential relocation sites (for reasons outlined above) not robust nor detailed enough.

15) That said, one of the potential uses of the Advice report and the section on Assessment of potential location sites is that it does manage to highlight a number of important matters that remain unresolved and require further analysis.

Synopsis of Consultation Process adopted:

- 16) As noted above MSWG members' engagement in the process abruptly ended once the group had agreed the content of the Advice report and did not have input into the legal route taken nor the consultation process design.
- 17) Government have chosen to consult a plan change under s360a-c of the RMA. This enables the Minister to rewrite aquaculture plan provisions if certain tests are passed. The analysis on how the Minister could be satisfied that the proposal is of national or regional significance, a necessity for using section 360, is unclear and it is questionable whether the current situation regards the economic value and environmental impacts of the low-flow NZKS salmon farms warrants use of this section of the Act.
- 18) The consultation process could be perceived as lacking integrity and may not meet the requirements, as set out by the Environment Court as being the principles for consultation, because;
- a) There is insufficient time to meaningfully review, question and develop a position on the vast array of information presented. A similar criticism of the early process.
 - b) Incomplete expert technical reports have been placed into the public domain; without those incomplete areas being made known.
 - c) There can be no cross-examination of the expert technical reports authors, reports which are knowingly incomplete and yet form the basis of the case to proceed with farm relocation.
 - d) The wider public has no ability to apply for financial support that would ordinarily be available through usual channels.
 - e) Overall, it is difficult to consider that the process adopted is 'fair' to all parties.