

# Marlborough Salmon Farm Relocation Advisory Panel

## Information for the public wishing to make comment

### Introduction

1. The Marlborough Salmon Farm Relocation Advisory Panel (**Panel**) has been established by the Hon. Nathan Guy, Minister for Primary Industries, exercising the powers of the Minister of Aquaculture (**Minister**) under section 360B of the Resource Management Act 1991 (**RMA**). Sections 360A and 360B of the RMA provide for the Governor-General, on the recommendation of the Minister, to amend, by Order in Council, provisions in a regional coastal plan that relate to the management of aquaculture activities in the coastal marine area. In this instance the proposed plan change is to the Marlborough Sounds Resource Management Plan (being the operative plan).
2. This is not a normal RMA plan change process. Even the language is different: e.g comments v submissions. This is the first time that the use of this regulation making power has been considered. The Panel has, therefore, provided this information to assist those members of the public wishing to be involved in this process.

### Background

3. The rationale for a plan change to the Marlborough Sounds Resource Management Plan and the use of regulations as the tool is set out [elsewhere](#). At this stage it is important to recognise that the regulations for a proposed plan change are only proposals with no decisions having been made by the Minister. The following process allows the public an opportunity to comment on the proposed regulations.
4. This document is only concerned with the public comment and hearings process.
5. The [Terms of Reference](#) for the Panel set out the purpose and function of the Panel and a high level view on how the Panel will operate. The Panel will operate more akin to a Council hearing process than an Environment Court process, with the principal difference being the lack of cross-examination in this comments process. There are also significant differences in the decision-making process.
6. The legislation specifically requires that, along with the public, iwi authorities have an opportunity to comment. This will be through written comment and hui. The organisation of hui will be a matter for discussion between the Panel and the eight relevant iwi authorities. Individual Māori and other tangata whenua representatives are welcome to participate as individuals in the public comment and hearings process as discussed

below. The proposed hui are specifically for iwi authorities to make oral presentations to the Panel addressing their written comments.

### **Process prior to written comments**

7. Under section 360B(3) of the RMA the Minister must establish a process which the Minister considers gives the public adequate time and opportunity to comment on the proposed regulations. The consultation process started on 26 January 2017 and is due to be completed after the hearings, which are expected to conclude by mid-May 2017. The Panel will then need to prepare its report.
8. The Minister considers that for people to be able to comment they need to be informed about what is proposed. As a result there is a significant amount of information on the MPI [website](#).
9. The Panel members will have read and considered that information before the hearings commence.
10. To assist people to understand the considerable amount of information, much of it technical, staff from the Ministry of Primary Industries have held meetings or “drop in” sessions during the consultation period. These sessions are NOT part of the Panel’s process. Any exchange of views at those meetings will not be recorded and will not be considered as part of the formal “comments” process. The purpose of these meetings is for officials to provide information and respond to queries to help inform comments.
11. Panel members will not be seeking information through these informal “drop-in” sessions. If the Panel members need clarification about the proposal they will ask questions during the hearings.

### **Written comments**

12. The only way for your views to be considered in this process is to provide a written comment. Without providing a written comment first you will not be heard by the Panel. Written comments are to be sent to the Ministry of Primary Industries by 5pm 27 March 2017. Written comments can be sent by email to [aquaculture.submissions@mpi.govt.nz](mailto:aquaculture.submissions@mpi.govt.nz) or posted to:

Salmon Farm Relocation  
Ministry for Primary Industries  
Private Bag 14  
Port Nelson 7042  
New Zealand

13. The Ministry will provide all Panel members with a copy of each written comment. It will place all written comments on its website as soon as possible once the comment period closes on 27 March so that anyone interested can see what others have written. It is likely that comments will

be posted in the order received with an index by name (but not subject matter) provided. The Ministry will provide a summary of all comments as soon as practicable and this will also be made available on the website and to the Panel members before the first day of the hearings. Any summary will, necessarily, be high level and will not be relied upon by the Panel as an accurate representation of any individual comment.

14. As all written comments will be made public it is essential that you consider what you put in the written comment carefully. It should be assumed that it is not possible to keep confidential any sensitive information (commercial or cultural) that is provided as part of a written comment. Personal information such as contact details will be redacted, but names will be published.

15. There are no formal requirements about what is to be contained within written comments, except you must advise whether you wish to be heard by the Panel or not. If this is not stated, it will be assumed you do not wish to be heard and you will not be advised of when hearings are to be held.

16. There are, however, some fundamentals:

- Written comments must be received by 5pm on 27 March 2017.
- If at all possible, please provide the comment in a typed form and not hand writing.
- Number the paragraphs.
- State your name (and if appropriate your occupation and where you live);
- Provide contact details so the written comments can be acknowledged;
- State whether you wish to be heard and, if so, provide contact details (such as email and phone number) so you can easily be contacted about hearing times and dates;
- State whether you support or oppose (in whole or in specific parts) the proposed regulation and plan changes;
- Explain why you take that position (which may include information (evidence) that supports your position);
- Alternatively, you could state you are neutral and you are commenting to bring certain information to the Panel's attention.
- If you intend to have others (such as experts) support your oral presentation please include details of who they are and what they will cover.
- If you wish to speak to your comments, an indication of the amount of time you consider you may need for your oral presentation would be helpful, although actual time granted will depend on the number of others wishing to be heard.

17. The level of detail in your written comments is a decision for you to make but making your comment short and to the point, organised in a logical order and factual will be more effective than an unstructured and emotional one. Use of short sentences in everyday language and bullet points is more effective than long flowery sentences or lots of jargon. If you wish to amend

the wording of the plan change your written comment will be most effective if you can provide alternative wording for the provisions.

18. If you have already provided your written comment and it does not comply with these suggestions, your written comments will be accepted and fully considered by the Panel. As noted above there is no set format. If, however, you have not provided contact details but you do wish to speak to your comments then please contact [aquaculture.submissions@mpi.govt.nz](mailto:aquaculture.submissions@mpi.govt.nz)
19. If you do not intend to be heard then your written comment is the only opportunity you will have to influence the Panel, so ensure it covers all of the points (in appropriate detail) you wish to make that are relevant to the proposed plan change and regulation. If you do wish to be heard by the Panel it is still preferable that you cover all points. This provides you with assurance that your points will be considered if you cannot appear at the hearing. It also means that you can elaborate on the most important points at the hearing as opposed to using your time to cover all of the issues.
20. To help the process run as smoothly as possible if you do wish to be heard by the Panel you should advise in your written comment if you intend to speak in te reo or use sign language so translators can be made available. It would also be helpful to advise if you wish to be heard with others who are making comments so that, if possible, you can be grouped together.
21. The Panel members will read all written comments prior to the hearing.

### **The hearing**

22. Initially, four weeks has been set aside for hearings, with the intention of holding hearings two to three days each week. Timing and location(s) will be resolved once it is clear how many people wish to be heard, but at this stage it is anticipated that for logistical reasons the hearings will be held in Blenheim. Information on this will be provided on the MPI [website](#) and those who have provided contact details will be advised of the timetable. The hearings will be in public and anyone will be able to attend and listen.
23. The hearings will give an opportunity for those who wish to be heard to speak to their written comments. As the Panel members will have read the comments, there is no need to read the Panel those comments. That is likely to be counter-productive. Those who wish to be heard will be invited to talk to their written comments and so have an opportunity to elaborate on the most important points. It may also be appropriate to add further information or respond to comments made by other people, but you will need to think carefully what is most effective and the best use of time.
24. Given the limited period for hearings and the number of people who may wish to be heard it is very likely that time may need to be restricted. Those who wish to be heard will be advised of how long they have for their

presentation. This time will include an opportunity for the Panel members to ask questions.

25. The [Terms of Reference](#) for the Panel make it very clear that the hearings are to be as informal as possible. This is to enable community participation without the need for lawyers or other professionals, although if someone wishes to use a lawyer they are able to do so. The intention is that it will not be an adversarial process and there will be no cross-examination by other people who attend the hearings. Even if lawyers are present on behalf of those who wish to comment, they are not allowed to cross-examine other presenters.

26. The Panel members' role is, however, to test the information put before the Panel. The members may choose to ask questions to clarify what is being said and to examine differing views. This will be managed by the Chairperson. Any questions from the Panel should be seen in terms of "testing the information" as opposed to the member presenting a particular view. The members have been appointed because of their expertise with the RMA and are not advocates or representatives of any particular group.

27. The hearing process is for the Panel to decide. The day to day running of the hearing will need to take into account who is available and what they wish to discuss. It is anticipated that comments may cover a range of subjects so trying to group presenters on the basis of subject matter is unlikely. A more likely grouping is those who support the proposal, those who are neutral and those who oppose.

28. It is likely that representatives of the Ministry for Primary Industries will be asked to make an initial presentation to set the proposed regulation in context and explain the thinking on the proposed plan change wording at the time it was drafted (taking into account that there had been no opportunity for public comment). It is also likely that the Marlborough District Council as the "owner" of the plan proposed to be changed may require an opportunity to discuss how the proposed plan change may affect the existing plan. Other interest groups may also have reasons to have a longer time to present or to respond to questions.

29. It will be open to the Panel to recall people if issues arise after they have been heard and the Panel later considers that someone already heard may have something useful to contribute. The Panel is likely to wish to hear from the Ministry for Primary Industries at the end of the hearing to test its reaction to various suggestions put forward in the comments. It may also wish to consider with the Council how variations to the wording of the plan change would impact on the existing plan.

30. The Panel does not, however, have the ability to investigate matters of its own accord. The Panel's role is read and hear all of the comments on behalf of the Minister and consider material presented to it. It cannot commission its own research. Its focus is on the proposed regulation and plan change (which deals with the effects of salmon farming in the proposed

relocation sites). The Panel is not considering aquaculture, or even salmon farming, generally.

31. The procedural matters will be dealt with once the Panel has had an opportunity to review the written comments received. The Panel may need to respond to situations as they arise during the hearing.

## **Experts**

32. The Ministry for Primary Industry has already received a number of expert reports which have been placed on the MPI [website](#). If required, the authors of these reports will be available to answer questions from the Panel. It is considered likely that other persons may also wish the Panel to hear from other experts. The Panel does not have the authority to commission its own reports from experts. If other experts wish to be heard in that capacity by the Panel they will need to attend to support written comments. These experts will be expected to assist the Panel by identifying in writing the points of difference they have with the reports on the MPI website and their reasons for the difference.

33. It will be up to the Panel to decide who are experts and what experts they wish to hear from and how. Normally experts will have relevant academic qualifications and experience. There are times, however, where experience (for example cultural knowledge) may be sufficient to style someone “an expert”. The Panel will require anyone classified as an expert to adhere to the Environment Court [Practice Note 2014](#).

34. “Expert workshops” have been proposed as a way to avoid the formality and the cross-examination of a Court-type process. The details of the process will emerge once it is clearer how many experts and on what topics need to be considered.

35. The aim is that if the experts are placed together with a facilitator, they will be able to discuss the issues and, if consensus cannot be found, at least they may be able to narrow areas of disagreement. The Panel members may then meet with the experts, in a public hearing, to discuss the areas of disagreement. The extent of the facilitation and any further hearing will depend on topic and personalities.

36. If you do wish to involve an expert then signalling this in the written comment is necessary.

## **Site Visit**

37. The Panel will view the existing salmon farms and the proposed sites for relocation and their environs prior to the start of the hearings. These visits will be independent of any person who has a direct interest in the outcome.

## Deliberations

38. The Panel will not deliberate at the hearings but after their conclusion. The Panel can make whatever recommendations it wishes to the Minister, including providing options. The Panel members are not subject to the Minister's direction but nor does the Minister have to accept all or any of the recommendations made by the Panel. The Panel will provide a report to the Minister by 23 June 2017, which the Minister will consider along with other information. It is for the Minister to decide whether to recommend the making of the regulation providing for the plan change. It will be up to the Minister as to when he decides to take any further action on this matter.
39. As this process of considering comments is not a hearing on a plan change under Schedule 1 of the RMA by a local authority, there is no right of appeal to the Environment Court. **The opportunity for written comment and addressing the Panel is the only opportunity for the public to be heard on the plan change if it is to proceed by regulation.**



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P R Skelton

Professor Peter Skelton, CNZM  
Chairperson  
7<sup>th</sup> March, 2017