

**BEFORE THE ADVISORY PANEL  
AT BLENHEIM**

**PROPOSAL FOR RELOCATION OF SALMON FARMS IN THE MARLBOROUGH  
SOUNDS**

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**MEMORANDUM OF COUNSEL FOR ROYAL FOREST AND BIRD PROTECTION SOCIETY OF  
NEW ZEALAND INCORPORATED REGARDING EXPERT CAUCUSING**

**1 May 2017**

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Royal Forest & Bird Protection Society  
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**MAY IT PLEASE THE PANEL:**

- 1 Forest & Bird opposes in the strongest possible terms the Panel's decision to proceed with conferencing of avifauna experts without its expert, Dr Paul Fisher, being able to participate. Forest & Bird considers this is a breach of natural justice.
- 2 As has been well signalled, Forest & Bird's avifauna expert Dr Paul Fisher is unable to attend caucusing on 10 May 2017 because he has already committed to leading a water quality monitoring education workshop for Nelson College and Tiakina on that date. Arrangements for the workshop have been finalised and the workshop cannot proceed without Dr Fisher.
- 3 Dr Fisher's unavailability will not be a surprise. In response to email correspondence identifying 10 May as a "tentative date" for caucusing<sup>1</sup> the Panel's hearings administrator Ms Louise Walker was twice advised of Dr Fisher's inability to attend caucusing on that date: by email on 21 April<sup>2</sup> and 24 April.<sup>3</sup>
- 4 Nonetheless, the Panel confirmed caucusing of avifauna experts for 10 May on 27 April.<sup>4</sup> Forest & Bird's immediate request for an alternative date has been rejected.<sup>5</sup>
- 5 Forest & Bird is concerned by exclusion of its expert from caucusing. Forest & Bird has incurred costs in engaging Dr Fisher and considers that it has been disadvantaged by the Panel's decision.
- 6 Forest & Bird's submission and Dr Fisher's statement of evidence<sup>6</sup> questioned the adequacy of MPI's expert assessments of effects on the

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<sup>1</sup> Email Ms Walker 18 April.

<sup>2</sup> By Mr Ironside on behalf of Forest & Bird in Ms Gepp's absence.

<sup>3</sup> By Ms Wright on behalf of Forest & Bird in Ms Gepp's absence.

<sup>4</sup> Email, Ms Walker on 27 April.

<sup>5</sup> Email request, Ms Wright on behalf of Forest & Bird on 28 April. Email response by Ms Walker on 1 May.

<sup>6</sup> Filed with Forest & Bird's submission on 27 March 2017.

New Zealand King Shag, in particular in respect of cumulative effects and of taking a precautionary approach. If Dr Fisher is excluded from caucusing, Forest & Bird will be unfairly disadvantaged by not having the opportunity to have these matters considered in the same way as other parties.

- 7 Forest & Bird raised concerns about the lawfulness of the entire process in its submission. Exclusion of its expert from caucusing, in particular when Dr Fisher's unavailability was brought promptly to the Panel's attention further compromises the integrity of the process.
- 8 That process already limits public participation with natural justice implications. Pursuit of expediency should not curtail public participation further, in particular at the expense of expert input.
- 9 For these reasons, Forest & Bird respectfully requests directions that caucusing of avifauna experts be:
  - a. Shifted to 11 May 2017 as previously requested.<sup>7</sup>; or
  - b. If 11 May 2017 does not suit all experts, an alternative date for caucusing be set.

A handwritten signature in black ink, appearing to read 'P. Anderson', is written over a light blue rectangular background.

S Gepp/P Anderson  
Royal Forest & Bird Protection Society of New Zealand Inc

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<sup>7</sup> Forest & Bird understands that Friends of Nelson Haven's expert Rob Schuckard is available on that date. Availability of other experts is not known.