

BEFORE THE MARLBOROUGH SALMON FARM RELOCATION ADVISORY PANEL

IN THE MATTER: SECTION 360A OF THE RESOURCE MANAGEMENT
ACT 1991

AND

IN THE MATTER: A PROPOSAL TO AMEND THE MARLBOROUGH
SOUNDS RESOURCE MANAGEMENT PLAN TO
ENABLE THE RELOCATION OF UP TO SIX EXISTING
SALMON FARMS

RESPONSE TO THE SECOND MINUTE OF THE
MARLBOROUGH SALMON FARM RELOCATION ADVISORY PANEL
ON EXPERT CAUCUSING

DR MICHAEL LAWRENCE STEVEN

FOR

FRIENDS OF NELSON HAVEN AND TASMAN BAY &
KENEPURU AND CENTRAL SOUNDS RESIDENTS ASSOCIATION

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1. This document responds to the Second Minute of the Marlborough Salmon Farm Relocation Advisory Panel on expert caucusing.
2. The panel has requested a bullet point list of the following matters:
 - 2.1. The relevant points upon which I agree with opposing expert views in the materials placed before the Panel.
 - 2.2. The relevant points upon which I differ from the opposing expert views in the materials placed before the Panel.
 - 2.3. Succinctly, the specific reasons why I say that the Panel should prefer my views to those of the opposing experts.
3. The following comments are restricted to the landscape assessment undertaken by Mr Hudson, and the peer review conducted by Ms Williams.
4. I do not regard Mr Brown for EDS as an “opposing expert”. While our approaches to the matter may differ in some respects, I understand us to be broadly in agreement on the adverse effects of the proposal, in particular the cumulative effects on the landscape significance and natural character of the landscape/seascape of the Waitata Reach.

Relevant points upon which I agree with the expert views of Mr Hudson

5. I agree with Mr Hudson that the location of the Blowhole Point North and South sites (34 & 122) is within an area that can be regarded as an outstanding natural landscape (ONL), as recognised in the proposed Marlborough Environment Plan (MEP).

Relevant points upon which I differ from the expert views of Mr Hudson

Mr Hudson’s reliance upon untested 3rd party assessments

6. Mr Hudson has adopted - uncritically - the untested findings of Boffa Miskell Ltd (2014, 2015) as the basis of his assessment of effects on landscape value and natural character.

7. I have reviewed the BML studies, conducted my own assessments, and reached different, and in my opinion more valid and reliable conclusions.

Scale of assessment for landscape and natural character

8. Mr Hudson has adopted a site-level context for the assessment of landscape value, and effects on landscape value. I have adopted a landscape scale for the assessment of landscape, consistent with NZCPS Policy 15: the protection of “...natural features and natural landscapes (including seascapes) of the coastal environment.”
9. Mr Hudson has adopted a site level context for the assessment of natural character and effects on natural character. The site scale of his assessments is too restrictive and in my opinion does not correspond to the Level 5 assessment scale as proposed in the BML (2014) study, and reproduced by Ms Williams in her peer review (p.6). I understand Level 5 to be locational rather than site specific, and in any event has its origins in the analysis of terrestrial landforms, and not the coastal marine area.

Differentiation of landscape and natural character

10. Mr Hudson confuses the concepts of landscape (NZCPS Policy 15) and natural character (NZCPS Policy 13). His approach to the assessment of natural character, and effects on natural character, is not premised on a clear and valid definition of natural character. Mr Hudson incorporates a range of irrelevant factors into his assessment of natural character, including values generally, and aesthetic values in particular.
11. Mr Hudson’s baseline and post-relocation assessments of natural character are not credible, based as they are upon a flawed conceptualisation of natural character. My understanding of natural character and its assessment is described in detail in my evidence.

Failure to assess terrestrial and marine components of coastal environment separately when assessing natural character, and effects on natural character

12. Mr Hudson assesses natural character, and effects on natural character, with respect to the terrestrial and marine components of the coastal environment

collectively, rather than individually. This is contrary to emerging practice in natural character assessment.

Incorrect use of assessment scales

13. Mr Hudson has misunderstood the application of assessment/rating scales to the assessment of landscape, natural character and the significance of adverse effects on landscape, natural character and amenity. I discuss this issue, and the reasons for my criticism of Mr Hudson's approach, in my main evidence.

Assessment of cumulative effects

14. Mr Hudson's narrow interpretation cumulative effects is inconsistent with cumulative effects as defined in the RMA (s 3) and discussed in relevant case law¹. Cumulative effects must be understood in terms of the total changes evident in the landscape or coastal environment, and not simply the cumulative effects associated with each additional proposed salmon farm. In this regard, the cumulative effects of proposed salmon farms must be considered, together with other modifications to the landscape and coastal environment, including effects arising from marine farming generally, and forestry and agricultural development.

Relevant points upon which I differ from the expert views of Ms Williams

15. I do not agree with Ms Williams comment - and the endorsement it appears to carry - that; *"Overall the Hudson study follows best practice methodology that is robust in principle and uses appropriate and consistent comparison measures."* (Drakeford Williams, p.59)
16. A best practice assessment methodology suitable for the matter before the panel does not yet exist. I do not regard Mr Hudson's study as being "robust in principle" and his comparison measures are neither "appropriate nor consistent". I substantiate these opinions in my main evidence.

¹ C137/00, *Gargiulo v Christchurch City Council* at [38]: "...any one incremental change is insignificant in itself, but at some point in time or space the accumulation of insignificant effects becomes significant."


Relevant points upon which I agree with the expert views of Ms Williams

17. I agree with Ms Williams in her criticism of Mr Hudson's baseline and cumulative effects ratings for the Blowhole Point and Mid-Channel Waitata sites
18. I agree with Ms Williams that the cumulative effects of the proposal on the natural character of the Waitata Reach will be "High to Very High", or in my words, significantly adverse.

Why the panel should prefer my views to those of the opposing experts

19. My opinions are to be preferred over those of Mr Hudson for the following reasons:
 - 19.1. In undertaking my assessments I have based my analysis upon a clear distinction between the concepts of landscape and natural character, as they are used in NZCPS Policies 13 and 15. In particular, I have given had regard to the words of NZCPS Policy 14(2): "*Recognise that natural character is not the same as natural features and landscapes or amenity values...*". My conceptualisations of landscape and natural character are informed by theory and relevant Environment Court decisions.
 - 19.2. I have undertaken original assessments of landscape and natural character of the Waitata Reach based upon clearly articulated methods, rather than relying upon the flawed studies of a third party. I have provided the panel with a critique of the Boffa Miskell Ltd studies of landscape (2015) and natural character (2014) of the Marlborough Sounds, and articulated a clear argument for why these studies are an invalid and unreliable basis for the purposes of Mr Hudson's assessment.
 - 19.3. I have demonstrated a clear understanding of the use of ratings scales and how they should be applied to the assessment of landscape, natural character, and adverse effects.

- 19.4. I have drawn upon relevant decisions of the Environment Court to inform my assessment of outstanding natural landscapes. My analysis of effects is based upon the understanding of landscape/seascape as an holistic concept, rather than a phenomenon that can be understood as having relevance at the level of the site, as Mr Hudson has done.
- 19.5. My understanding of cumulative effects is consistent with the definition given in s 3 of the RMA and relevant case law on how cumulative effects are to be understood and considered.
- 19.6. Overall, I consider my assessment to to be consistent with the intent of NZCPS Policies 13 and 15, whereas in my opinion, that of Mr Hudson is not.

A handwritten signature in black ink, appearing to read 'ML Steven', with a large, stylized initial 'M' and 'S'.

ML Steven
2 May 2017