

24 May 2013

Rt Hon. John Key
Private Bag 18 888
Parliament Buildings
Wellington 6160

Dear John,

Think Piece 16: New Zealand King Salmon – Was it a good decision for New Zealand?

The McGuinness Institute is a non-partisan think tank working towards a sustainable future, contributing strategic foresight through evidence-based research and policy analysis. The Institute's overarching project, *Project 2058*, aims to explore New Zealand's long-term future. Along the way we have identified areas of research interest such as how to create a talent-based economy, genetic modification, the use and protection of our oceans, data management and resource management.

Following our involvement in the Board of Inquiry hearing last year, the Institute has undertaken a comprehensive review of the proposal put forward by New Zealand King Salmon to develop additional salmon farms in the Marlborough Sounds, and the decision of the Board of Inquiry in relation to this proposal. The Institute took a particular interest in this case as this was the first commercial agricultural-based application of national significance following the establishment of the EPA in 2012. Considering the current review of the Resource Management Act and the upcoming appeals to be heard in the High Court in Blenheim this coming week (starting 27 May), we thought you might like a copy of the resulting think piece and supporting working paper.

Think Piece 16 and the supporting *Working Paper 2013/01: Notes on the New Zealand King Salmon Decision* (published May 2013) seek to examine the public policy challenges and opportunities that arise from New Zealand King Salmon's application. The think piece identifies six stages in the application and hearing process, provides a summary of sixteen key challenges that arise from it, and identifies five resulting opportunities. The accompanying working paper includes comprehensive notes to support and explain these sixteen challenges, and details of the five opportunities.

To summarise, we found that the current system gives the applicant too much control over the process and the Board of Inquiry too little. We hope that the current Ministry for the Environment review of the Resource Management Act will provide an opportunity to broadly review the framework, so New Zealanders can be confident that future applications will be considered in a more robust and inquiring manner. In particular we would like to see the EPA be assured adequate resourcing to rigorously *scrutinise* applications and to enable the Board of Inquiry to *inquire*.

There also remain a number of policy questions that require further thought and consideration:

Question 1: Why was the purpose of the application not *inquired into*? The stated purpose of NZKS's application was to urgently acquire new water space to meet demand; however, existing production was well below full capacity (e.g. feed discharged on existing farms was almost half the amount presently allowed) and the company's finished goods had doubled in 12 months prior to June 2012 (See Notes 3, 11 [Table 5, p. 45] and 16 in the Working Paper)

Question 2: Why did the initial application contain so many errors? (See Note 4)

Question 3: Whose responsibility is it to ensure relevant reports commissioned by government departments are made available to the Board of Inquiry? Three relevant reports were not tabled. (See Note 1)

Question 4: Why was no comprehensive cost-benefit analysis undertaken? (See Note 7: (ii) [p. 29])

Question 5: Why were the benefits of all nine farms assessed as a whole (rather than farm by farm) when the costs and risks were largely assessed farm by farm?
(See Note 11: Assessment 1 [p. 42])

Question 6: Who undertakes the assessment of alternative future uses of a resource? The Board of Inquiry's focus was on the proposal not the strategic options relating to use of the resource. They did not consider alternative future options such as the potential for the area to be listed as a UN Heritage Site or developed into an 'eco-sound' for tourism, even though the application was to use the water space for 35 years. (See Note 11: Assessment 2 [p. 44])

Question 7: Who undertakes reviews of Board of Inquiry decisions with a view to improving the decision-making process? Importantly, this would not be a case of reassessing the decision, but analysing the decision-making process to improve outcomes. Review questions could include:

- Whether the benefits for New Zealand were realised?
- If the risks have been managed and whether new risks existed that have now become apparent?
- Whether any key information was missing?
- Whether models and methods of assessment should be improved?

We need to ensure we make optimal decisions, particularly when consents have a long duration and impact on significant national resources.

One of the more positive aspects of the decision is that astute local authorities should now be working hard to ensure their long-term plans and regional policy statements are up to date and clearly reflect the wishes of the community, particularly when it comes to prohibited activities. The Board of Inquiry inferred that the Marlborough District Council's Regional Policy Statement (1995) was out of date and vague, offering only a 'limited degree of guidance'.

It was an interesting exercise engaging in the process and the Institute learnt a great deal. Our purpose in writing is to provide you with our analysis and gain your support for a better resourced EPA and a more inquiring Board of Inquiry, ideally with greater research capability. This means putting more energy into scrutiny at the beginning of the process so time and money is not wasted debating the content of the application. We also need support for a whole-of-government approach so that the New Zealand government makes optimal investment decisions in terms of both money invested and risks taken.

If you have any additional questions or queries please do not hesitate to contact me.

Yours sincerely



Wendy McGuinness

Chief Executive

Attached: Think Piece 16 and Working Paper 2013/01