

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

of a Board of Inquiry appointed under section 149J of the Resource Management Act 1991 to consider The New Zealand King Salmon Co. Limited's private plan change requests to the Marlborough Sounds Resource Management Plan and resource consent applications for marine farming at nine sites located in the Marlborough Sounds

STATEMENT OF EVIDENCE PREPARED FOR THE BOARD OF INQUIRY OF WENDY
MCGUINNESS ON BEHALF OF THE MCGUINNESS INSTITUTE

Dated: 10 August 2012

Date of Hearing: Commencing 27th August 2012



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1.0 EXECUTIVE SUMMARY

The key issues underlying the Statement of Evidence is that we need to, as a country, complete deeper and more comprehensive and evidence based analysis on situations where we sell, lease, or loan land for the long-term. This proposal will put in place a license for 35 years, which will not be able to be reassessed in terms of new scientific information.

The following is an attempt to show why we need to critically assess the information that is put in front of us as decision makers who are making long-term decisions for the benefit of the country. I do this by looking at the evidence that has been provided by NZ King Salmon and then outlining how my approach would differ. Of particular relevance is the need to develop a decision based on a site-by-site basis, and a decision that is sufficiently flexible to fit into an on-going reform process that is before government. In particular I note that the marine reserve area is still in question and the regulatory framework on occupational charging is still with central government agencies and will be further debated in coming months, well after this decision is made by the EPA. Hence, the goal of this Statement of Evidence is to show the Board of Inquiry how they might look deeper (in-depth analysis) and wider (across all effects) and more long-term (over the length of the proposal).

2.0 QUALIFICATIONS AND EXPERTISE

- 2.1 My full name is Wendy Louise McGuinness.
- 2.2 I was born in TeKuiti, the daughter of sheep and cattle farmers. Many of my extended family still own and operate farms.
- 2.3 I am the founder and Chief Executive of the McGuinness Institute. The Institute is a non-partisan, independent think tank working towards a sustainable future, contributing strategic foresight through evidence based research and policy analysis. The Institute is developing a vision of what a sustainable New Zealand may look like in the year 2058 and an overarching strategy to reach this vision. *Project 2058* promotes integrated long-term thinking, leadership and capacity-building so that New Zealand can effectively explore and manage risks and opportunities over the next 50 years.
- 2.4 In addition to Project 2058, which is our overarching project, the Institute operates a number of other smaller projects including Project Genetic Modification, Project Pandemic and Project Nation Dates (McGuinness Institute, 2011). We also have an upcoming project which we have been quietly exploring for the last eighteen months, called Project Oceans.
- 2.5 I have been scoping out an oceans project for about eighteen months. As a part of that scoping, I visited the David Suzuki Institute and the Living Oceans Society while in Vancouver last July, with a view to developing a working relationship. It was at this time I first discussed salmon farming; which to my knowledge was before the NZ King Salmon application was first announced.

- 2.6 Further, the Institute also prepared a detailed submission on the EEZ (Sustainable Future Institute, 2012; McGuinness Institute, 2012a) as preparation for the oceans project.
- 2.7 The McGuinness Institute was previously known as the Sustainable Future Institute, which was established in 2004.
- 2.8 I hold a BCom from the University of Auckland, and an MBA from the University of Otago, I have also completed additional environmental papers at Massey University, and hold a New Zealand Certificate of Commerce (NZCC) from Manukau Technical Institute. I've completed courses with the Institute of Directors in New Zealand Inc., Leadership New Zealand, World Future Society courses in Washington DC, Chicago and Boston, and an executive 5-day programme at Harvard Business School in July, 2010, *Driving Corporate Performance Aligning Scorecards, Systems, and Strategy*.
- 2.9 I have an extensive list of publications; with particular reference to this Statement of Evidence, a book called Nation Dates, which explores New Zealand's history (McGuinness and White, 2011) and a report on the shared goals of Māori (Sustainable Future Institute, 2010).
- 2.10 I have been a Councillor for the NZICA and became a Fellow of the College of Chartered Accountants (FCA) in 2009.
- 2.11 I have been a party to a successful legal action against ERMA, on the basis that I did not believe that the investment in genetically modified cows was the best use of public money, and further put at risk our highly important agricultural based economy.
- 2.12 I have never been involved in an RMA process; hence I am learning the process through this specific engagement. I will work hard to try and operate to the standard required of me.
- 2.13 I am interested in the emerging new EPA process, and am keen to learn the extent to which an integrated national approach to risk management and business practice is being developed, and the extent to which a national strategy is being pursued.
- 2.14 I have specialised in public sector accounting reform, and have written a report for Treasury on the *Implementation of Accrual Accounting for Government Departments* (McGuinness, W., 1988) and risk management, which led me to become interested in genetic modification, and ultimately, the study of foresight and national strategies.
- 2.15 I have been, and continue to be, involved in a wide range of businesses.

3.0 CODE OF CONDUCT

- 3.1 I have read the Environment Court's Practice Note – Expert Witnesses - Code of Conduct, and I agree to comply with it. My qualifications and experience are set out above. I confirm that the issues addressed in this brief of evidence are within my area of expertise. I do not have a detailed knowledge or expertise of the salmon industry either here or elsewhere, which is why I have invited two Canadian experts to prepare Statement of Evidence.
- 3.2 While participating in this Board of Inquiry Proceeding I am in effect wearing two hats. The first is as an expert witness, as the Chief Executive of a think tank. The second is as a joint owner of property in Umeheke Bay, on the west side of Arapawa Island. In order to keep these responses separate, I have completed two separate submissions. I can best explain the situation with an analogy, I accept New Zealand needs hospitals at a national level, but I would not personally like them built opposite my house.
- 3.3 The only situation where these two responses cross professionally is with regard to an initiative the Institute facilitates where we are slowly returning the land on Arapawa Island to native bush. The initiative is mentioned in our Annual report (Sustainable Future Institute, 2011).
- 3.4 I will work hard to keep my two responses, my professional and my personal responses, as separate as possible. Any further suggestions on how best to separate this conflict of interests are very welcome.
- 3.5 I have prepared expert evidence on the basis of my experience as someone who has spent most of her career at the interface between business practice and public policy. My preference is to develop policy for the future, rather than for the past, Public policy should be developed alongside emerging risks and opportunities and where possible, integrated at a national level, ideally be guided by an overarching strategy (McGuinness Institute, 2012b).

4.0 POSITION STATEMENT OF THE INSTITUTE

- 4.1 The Institute's major focus is on the long term future of New Zealand. In pursuing this focus, an overarching strategy to drive our future appears a very useful instrument to achieving this end.
- 4.2 I support the concepts of business, entrepreneurship, and the importance of first mover advantage.
- 4.3 I have met both Grant Rosewarne and Mark Gillard and found them very easy to talk with, professional and very generous with their time.
- 4.4 The key question is simply whether this proposal is a good deal for New Zealand?
- 4.5 My interest in this application is due to the following:
- I believe aquaculture will become an important global industry in the long term future (20 to 50 years from now).

- I consider it is timely for New Zealand to review and develop an overarching regulatory framework for the future of this industry, both in terms of developing a global brand and in terms of minimising negative effects.
- I believe each aquaculture site should be individually assessed on a case-by-case basis.
- I believe the government, whether it be local or central, should charge for the water space. This fee should be used to pay for testing, management, and should ideally create an income for managing/mitigating all effects.
- I believe that the testing and monitoring of each site by an independent body paid for by the government and with the results of which reported to the public, are simply matters of good governance.

5.0 CONCERN ONE: THE BENEFITS OF A CASE-BY-CASE APPROACH

- 5.1 One of the chief concerns with the process is that this proposal requires the Board of Inquiry, and therefore the submitters, to provide evidence per topic rather than per site. This means that each site is not judged on its individual merits.
- 5.2 As a result we will attempt to respond to the model that has been put in place, although my professional advice is that the current approach is unlikely to lead to an optimal decision for New Zealand.
- 5.3 There are clearly going to be some sites that will have more merit than others, and it would be very useful for the Board of Inquiry to have in place a set of principles as to what makes the site a good site for New Zealand, much in the same way New Zealand King Salmon has assessed the productivity value of each site.
- 5.4 For example the Tory Channel/ Queen Charlotte sites are the most productive (Andrew Christopher Clark, page 2, F).
- 5.5 Applying a set of guidelines to assess the sites would be a great way to explore the costs, risks and benefits of this proposal. Doing so would illustrate which sites rate higher not only in productively, but in terms of visual pollution, environmental effects, value from heritage effects, .. etc than others.

6.0 CONCERN TWO: COASTAL OCCUPATIONAL CHARGING IS POLICY IN PROCESS

- 6.1 This application is being considered while the government is exploring ways to develop an overarching policy to manage coastal occupation charges. The Minister of Conservation is currently responding to a decision by Cabinet to explore this avenue, with a view to reporting back to Cabinet in the next few months. The Board of Inquiry will be required to make a decision before that framework becomes clear.

- 6.2 Any decision by the Board of Inquiry to approve any of these sites must contain a condition that coastal occupational costs must apply and be able to be collected and used. See the current situation as outlined in Cabinet Paper 2, Minute Decision 2. My understanding is that it is not a matter of if but when, who collects, how much and what the money will be used for.
- 6.3 Brief international research indicates that internationally, salmon farmers pay for a licence or consent to operate, and government uses these funds to monitor, report and regulate the industry and mitigate effects and in some cases, use those funds to invest back into the wellbeing of the community affected.

7.0 ECONOMIC ANALYSIS

- 7.1 First, I wish to make specific comments on three of the Statements of Evidence. Second, I wish to make general comments about the approach I believe is important,

Evidence of Andrew Christopher Clark (Chief Financial Officer of NZ King Salmon)

- 7.2 The statement includes a number of arguments and assumptions:
- [1] That aquaculture is an industry of the future
 - [2] The need to secure more water space
 - [3] That the water space needs to be of good quality
 - [4] That there is significant growth in both the New Zealand market and overseas markets
 - [5] That there is insufficient capacity to serve the market
 - [6] That 9 sites are needed now
 - [7] Profits will be redistributed back into New Zealand
 - [8] That if approved, this proposal will deliver substantial export revenue and create significant employment
- 7.3 I agree with [1] and [3].
- 7.4 I believe the evidence to support [2], [4], [5], [6], [7] and [8] is not adequately proven. Other than [7], arguments are dependent on key assumptions about the market.
- 7.5 I would have expected a deeper and broader analysis, with supporting evidence about both the demand and the supply for Chinook Salmon, so that a range of market prices were apparent. I would have also expected more detail of the costs involved. Perhaps this information has been provided privately, or in other statements of evidence, but in order to assess profitability, an assessment of revenue (which includes demand, supply and price) and expenses (which might have shown economies of scale in production) are required. The evidence to support the profitability, and therefore the delivery of substantial export revenue and employment, is not, in my view, proven.
- 7.6 Argument [7], that profits will be redistributed back into New Zealand, is interesting, but is based on two assumptions:

- i. That the Malaysian investors will continue to plough profits back into the company and the region.
 - ii. That the current New Zealand shareholders will not on sell to overseas interests.
- 7.7 From my perspective, my key concern is not [i]. I believe that a shareholder that has been involved in the company since 1996 (Andrew Christopher Clark, page 21, 69), arguably intends to stay in the industry. However, I would point out that in 2008 NZ King Salmon did sell some of their shareholdings (Andrew Christopher Clark, page 22, 72), indicating that their stability may be coming to an end. The only way that this uncertainty could have been removed is if the directors had indicated their desire in the business, by providing a Statement of Evidence to that effect.
- 7.8 My key concern is [ii], that the current New Zealand shareholders are not long-term investors by nature, and are therefore are likely to sell within the next five or six years. They made their share purchases in 2008, so have already owned the shares for four years. They say on their website:
- We invest in companies that are privately owned, have a profitable track record, a professional management team, and a competitive approach.
 - We generally invest equity of between \$10m - \$60m
 - These companies will generally have annual revenues of \$30m - \$200m
 - We will invest in both minority or majority shareholdings
 - We are flexible in the way we invest and work with business owners
- 7.9 Direct Capital are fund managers which tend to only invest for ten years or less. This would need to be checked, but it is the general understanding that they are fund managers and that funds are only managed for about ten years.
- 7.10 Since their involvement is only from 2008, I expect they will exit out of this investment within ten years. This might mean that by 2018, there is no New Zealand ownership of NZ King Salmon. This could be rectified by a Statement of Evidence to the contrary.
- 7.11 I discuss the ownership issues later in this section on institutional ownership.

Evidence of Ragnar Olav Nystoyl (Managing Director of Kontali Analyse)

- 7.12 This evidence centres on a report written in 2012, called *Production and Market Growth: Farmed Salmon, with a specific focus on Chinook* (King) Salmon.
- 7.13 He notes that in tonnes round, bled weight (wfe), the demand for salmon is increasing and the 'New Zealand market for salmon has shown growth during the past ten years... [and]... it is the domestically produced Chinook that has driven this growth'. This is based on the figures on trade and production data from the New Zealand Salmon Farmers Association Incorporated (NZFSA).
- 7.14 The New Zealand Salmon industry is represented by NZFSA, a voluntary subscription-based organisation comprising of active freshwater and seawater

salmon farmers, salmon processors and service product suppliers to the industry (NZSFA, n.d.). The association represents the growers of 98% of all salmon farmed in New Zealand. Mark Gillard has been the chair of this Association for 15 years. He is also the Operations and Contracts Manager for New Zealand King Salmon.

- 7.15 Due to the close relationship between NZ King Salmon and NZSFA, I would want to ensure that the data referred to on page 20 of the report is correct, particularly as 'other farmed' is so small. Looking at the shelves in a grocery store, one would indicate that the percentage of 'other farmed' is likely to be significantly higher.
- 7.16 The report also notes the limits of growth that are being placed on Norway producers, based on maximum allowed biomass per licence. This may be a useful condition to place on any decision.
- 7.17 Lastly, on page 3, Ragnar Olav Nystoyl highlights the current downturn and underlines his view: the demand for farmed salmon and trout in a longer perspective is likely to be stronger than the rate at which overall production can expand (my underline). What this implies is that if demand is higher than supply overtime, the price and therefore profits should increase.
- 7.18 This raises two questions;
(i) how likely is likely?
(ii) are the assumptions over the limitations to growth (section 6) and increasing demand generally agreed within the wider industry?
- 7.19 Regarding the first question (i), Ragnar Olav Nystoyl does not give us any indication of the range of *likely* over a particular time frame, or the extent to which factors may occur that could change that demand. I believe that his conclusion is not well evidenced or supported.
- 7.20 Regarding the second question (ii), are the assumptions over the limitations to growth (section 6) and increasing demand generally agreed within the wider industry?
- 7.21 We note the following information from overseas sources:
 - Farmed salmon prices reacted quickly to increased supply last spring as more Chilean salmon began hitting the market. Farmed salmon prices fell roughly 40 percent from record-high levels, mostly during the latter half of 2011. (Seafood market Bulletin, June 2012)
 - Salmon prices are still dropping in Norway – the week ended 27 May compared with the week ended 29 July, the export price went from 30.92 (NOK/kg) to 25.56 (NOK/kg) (Statistics Norway, 18 July, 2012).
 - Article on North Coast commercial fisherman protest low salmon prices (Press Democrat, July 2012)
- 7.22 I believe there is enough noise to indicate that the belief that the farming industry will have a smooth ride for the length of the proposal (35 years) is at best, questionable.

- 7.23 Based on the above, I agree with Ragnar Olav Nystoyl, that the industry is currently undergoing a downturn, but unlike him, I do not feel there is a strong industry view that the situation will right itself. (As noted earlier, I am not sure what he means by longer term, but my impression is that he considers this dip a short term phenomenon.)
- 7.24 I believe this industry will continue to fluctuate, and the real long-term test is not only what is happening in the global salmon farming industry, but what opportunities and risks exist in other fin-fish, and fish in general. This will depend on the forms of sea based protein, and indeed other protein, that become available the length of the next 35 years.
- 7.25 The evidence statement in my view is very specific to NZ King Salmon, and in order to have confidence that the conclusions are correct, I personally would be looking for a great deal more detail and clarity, both over time frames (ie. 35 years) and opportunities and risks that exist directly or indirectly in this industry.
- 7.26 This means that the following benefits, as claimed in the evidence of James Douglas Marshall Fairgray – below, should be seen through this lens; we are dealing with an industry that is emerging and has shown itself to be volatile. Fundamentally, we know that the world will be looking for sustainable ways to create protein to feed the growing population. How that protein will be created over the long-term is relatively uncertain.
- 7.27 What we do know is that the science is not yet certain about which protein is more sustainable than another. I suspect that aquaculture will become an increasingly viable option, but the extent to which that means that the salmon farming industry will be a viable long-term player in the sustainable food industry is yet to be evidenced.

Evidence of James Douglas Marshall Fairgray (principal of Market Economics Limited)

- 7.28 I note that James Douglas Marshall Fairgray has no commercial or economics qualifications and holds a PHD in geography. He clearly has a great deal of project management, RMA and court experience – 32 years.
- 7.29 Acknowledging this, I found the evidence contained a great deal of narrative but very little in regard to setting out the scope, assumptions and evidence he was relying on to draw his ultimate conclusions on pages 81 and 82:

The Proposed plan change would:

- (a) Enable significant growth in this salmon farming sector, which would produce significant positive effect for the economic and of the northern South Island, in particular New Zealand.
- (b) Be directly consistent with the wider National Aquaculture Strategy
- (c) Generate economic benefits which are substantial in the national context, which arise over time from an on-going commercial activity. Although the effects would be relatively small if they arose from a ‘one-off’ event or activity, their cumulative effect over-time is substantial;

- (d) Have very low opportunity costs from the 'effective occupation' of the marine resource, whether in terms of alternative aquaculture, or other commercial fishing and tourism –related activities; [and]
 - (e) Represent a more efficient use of marine resource that the potential alternative of establishing salmon farming in the existing CMZ2 zoned areas.
- 7.30 I will deal with these one-by-one and then provide a broader context of how I would go about undertaking an economic assessment.
- (a) Enable significant growth in this salmon farming sector, which would produce significant positive effect for the economic and of the northern South Island, in particular New Zealand.**
- 7.31 Clearly this proposal would significantly grow the salmon farming sector, what I question is whether that would produce significant positive effect for the economy of the northern South Island, and in particular New Zealand. I will refer to this later, when I discuss the approach I would take to answering this question.
- (b) Be directly consistent with the wider National Aquaculture Strategy**
- 7.32 I think it is critical here to reaffirm what the purpose of the strategy. The website says the National Aquaculture Strategy and action plan:
- 'aligns with both the aquaculture industry's strategy and the Ministry for Primary Industries' 2030 Strategy, setting out how the government can support the growth ambitions established by the sector. It also complements existing government environmental and economic initiatives and upholds the Crown's obligations under the Treaty of Waitangi.*
- Through the strategy and action plan the government will support industry in achieving its goals while acting in the public interest to ensure an appropriate balance of economic, social, cultural and ecological values.*
- 7.33 In my assessment the government clearly believes that the aquaculture industry is an important industry to develop, however it still requiring under the strategy alluded to by 'an appropriate balance of economic, social, cultural and ecological values.' James Douglas Marshall Fairgray, by making this conclusion, must also acknowledge that the plan also requires an appropriate balance to be set in order to be directly consistent with the plan, meaning from my perspective this is not a valid factor for the Board of Inquiry to consider when making this decision.
- 7.34 Further, it is important to appreciate the industry is still emerging and the strategy is still in its infancy and is only now in the process of developing policy and reform, and putting that into practice. See http://www.aquaculture.govt.nz/governments_role.php
- 7.35 Through the strategy and action plan the government will:
- *implement the new aquaculture law and work with councils and the public to plan for sensible and sustainable future aquaculture growth in accordance with New Zealand's laws and regulations;*

- *ensure the laws and frameworks governing the establishment and operation of marine and land-based aquaculture are effective and responsive, and enable industry investment;*
 - *deliver on the Crown's aquaculture settlement obligations to Māori and identify opportunities for improving Māori wellbeing through aquaculture development;*
 - *build our knowledge of environmental effects and ensure a healthy aquatic environment;*
 - *maintain and build our world-leading animal health and welfare, food safety, and biosecurity standards;*
 - *encourage investment and adoption of innovation; and*
 - *facilitate continued discussion between industry, government, Māori and the public as to how aquaculture should grow and be managed in New Zealand.*
- See <http://www.aquaculture.govt.nz/strategy.php>

7.36 The Minister of Conservation is also involved in the EPA process as a submitter. The Minister's submission opposed the application in part, and is neutral in part. Reasons for this include: the significant habitats and species and indigenous biological diversity associated with the Marlborough Sounds; the preservation and restoration of natural character, recreational and amenity values, land managed under the Reserves Act 1977 and on the public use and appreciation of public open space in the Marlborough Sounds generally and particularly at Papatua, Kaitapeha and Ruaomoko; and water quality in the area of the proposed farms as well as the Marlborough Sounds generally and benthic effects in the vicinity of the proposed farms of the discharge of contaminants (principally fish feed and fish excretions) (Minister of Conservation, 2012).

7.37 Lastly, it must be remembered that the Minister of Conservation called this decision in, and delegated the Board of Inquiry to hear this application, largely on environmental issues, implying that it is the environmental aspects that were in question, and therefore for this evidence not to explore the environmental costs in more detail, was a surprise.

(c) Generate economic benefits which are substantial in the national context, which arise over time from an on-going commercial activity. Although the effects would be relatively small if they arose from a 'one-off' event or activity, their cumulative effect over-time is substantial;

7.38 This is clearly the same conclusion as in a. I had expected to see a lot more detail evidence to support this statement. I will explain my suggested approach later.

(d) Have very low opportunity costs from the 'effective occupation' of the marine resource, whether in terms of alternative aquaculture, or other commercial fishing and tourism -related activities;

7.39 This conclusion is based on his definition of 'effective occupation'. The use of this term implies the narrow scope underlying this evidence statement, in that it is about the occupation of a small piece of land, rather than appreciating the wider effects of industries like tourism, where the visual landscape has value, and occupation in that landscape can either have a cost or a benefit – depending what is build there and what the community thinks of it. This narrow approach, in

isolation, indicates the difference in James Douglas Marshall Fairgray approach and my own.

(e) Represent a more efficient use of marine resource that the potential alternative of establishing salmon farming in the existing CMZ2 zoned areas.

7.40 I have no expertise to comment on this conclusion.

My Approach

7.41 If I was employed to undertake an economic analysis of this proposal, I would firstly try and understand the business that NZ King Salmon is in and then take a closer look at the needs and wants of the wider community. My approach would be to create a number of areas (spaces), working out from the source of each site. I would then analyse the risks and opportunities to all the players that live and work in these spaces.

7.42 I would be looking to take an integrated approach, and I will be looking to include a deep understanding of the social, environmental, cultural and heritage aspects of the spaces. In my view economic assessment should be done last, and only completed once all the other information is in.

7.43 I would be particularly careful about the information I would be relying upon. Sometimes I even mentally score data, what is 100% reliable (e.g. produced by an independent party and audited), 50 % reliable (probably right) and what just simply does not stack up.

7.44 I would also be particularly careful about any assumptions I am making. I write these up first and continuously go back and test them.

7.45 Lastly and most importantly, I try and understand the data and the assumptions that could have a large impact on the end result. In this case, an assumption that the present dip in salmon prices is only a short term event and that it will improve in the long term, must send alarm signals – why must it, over what period of time, based on what information, does everyone agree in the industry – what are the wild card (the black swans) – what is the lion in the grass (i.e. what is sitting in front of us all, but no one is seeing. In my case that would be the economic downturn, I believe it with us for atleast the next ten years. Another is climate change, what does that do to the sites in question.

7.46 Everything is integrated. We never get something for nothing, and the ripple effect goes both ways. For example, one black swan for the industry is disease. I do not remember reading in any of the economic evidence concerns over the risk of disease on economic outcomes. Further, what effect would a disease outbreak have on other industries, mussel farming, tourism or the enjoyment of local people using the sounds for pleasure?

7.47 Nor is there anything about the lost opportunity if the decision was approved for 35 years. For example, the Doubtful Sounds is a world heritage site, does this farm take away that opportunity for 35 years. What about the proposed changes around the Marine Reserves legislation, will this decision impact on the opportunity to create more reserves in the Marlborough Sounds.

Benefits accruing to overseas economies

7.48 I note that James Douglas Marshall Fairgray notes on page 81, para 7.10, that:

Concerns that substantial shares of the economic economics and benefits of the additional salmon farming and processing activity would accrue to overseas economies, because of the shareholding structure are unfounded.

7.49 My personal perspective is that profits to all shareholders should be excluded from this decision. New Zealand wants good investors in its businesses. We want an entrepreneurial society and we should not impose any restrictions or expectations about where those profits are going once they have been created.

7.50 What however, I do feel very strongly about is the presumption that the New Zealanders that have invested in this business are going to firstly spend their profits in New Zealand or go on to invest those profits in New Zealand companies.

7.51 If the Board of Inquiry do wish to take into account the profit from the business enterprise as a benefit to New Zealand, I feel very strongly we should be assessing the past business decisions all stakeholders.

7.52 Some shareholders are clearly operating for the long term benefit for New Zealand. For example, our Appendix 4 notes that shareholders do in fact include the Minister of Finance and the past Minister of Research, Science and Technology at 1.6% each, both of whom are legally bound to operate in the interests of New Zealand for the long-term.

7.53 However, there is at least one overseas investor in addition to the Tiong family. DB Valoren S.A.R.L. from Luxemburg has about 2.4%.

7.54 Further if you wanted to be sure that some of the profit was to stay in New Zealand, you would request key owners like Mark Robert Hutton and Ross Andrew George – with over 10% each -, would prepare statements of evidence that they would do so.

7.55 Personally I think this type of thinking makes a mockery of the system and will get in the way of making good decisions under the EPA legislations. If profitability is going to be considered a factor in making this decision, then all the shareholders should arguably give evidence in regard to their investment decisions for the 35 years of the proposal. I would argue without this level of evidence, the profit to shareholder effect should be removed from the decision making process in totality. .

Institutional Ownership

7.56 Lastly, I want to raise my concerns over the lack of transparency concerning ownership, especially when it has been implied that New Zealand ownership is secure and stable over time (Andrew Christopher Clark, page 20-76, in particular para 67).

- 7.57 We have attempted to analyse the ownership structure (See Appendix 2). We were interested to find quite a detailed web of ownership that is continuously undergoing change. We have drawn our information from the Company's Office records as at 9 August, 2012. We acknowledge that the Companies' Office's records may not be up-to-date and have raised the issue with NZ King Salmon directly. Appendix 2 illustrates a number of situations in which the shares are re-owned, what we have referred to as loops in the ownership system.
- 7.58 Under law, up to 5% of shares in a particular class can be repurchased and effectively held by their selves. The extent to which this has happened in Appendix 4 (which, please note, is a draft) demonstrates that further investigation is required to confirm that the percentages stated are indeed correct and reflect the current ownership structure, if in making its decision the board is to rely on the New Zealand ownership.

A company may repurchase and effectively hold in itself, rather than cancelling, up to 5% of shares in a particular class. As an equivalent to a cross-holding involving an in-substance subsidiary, it is accounted for by way of the treasury stock method, hence the use of the term "treasury stock". The shares are not deemed cancelled if (sec 67A):

- the constitution expressly permits it;
- the board resolves that the shares will not be cancelled on acquisition;
- the maximum number of shares held by the company in the class, excluding those previously deemed cancelled under sec 66(1), must not exceed 5% of that class.

- 7.59 Without such clarity over the long-term ownership and possible reinvestment plans by either major owner, it is arguable that any of the profit generated from this venture can be assumed to benefit New Zealand. The evidence to support these assumptions is not apparent in this Statement of Evidence for the reasons I have noted above.
- 7.60 If I had to provide a prediction, in my opinion the Tiong family would retain control of the company in the foreseeable future. They have a proven commitment to the industry. If they were to sell, they would either sell the whole parcel, or would purchase back the shares of Direct Capital. They appear to like control over their investments, which is a sentiment I appreciate and have some empathy for.
- 7.61 In contrast, Direct Capital is likely to sell in the next four to six years. If that decision is made, they are likely to make a significant profit from the sale, because they will be providing the new buyers with surety over water space, which highly productive for salmon farming. If this application is approved it is likely to create an attractive premium, which Direct Capital is likely to wish to bank.

Wages (hours worked and salary size)

- 7.62 Wages do have a significant impact on well-being and should be assessed in terms of the decision.
- 7.63 I found it difficult to find details on the number of staff and what their wages are like. It is necessary to do this in order to assess the multiplier effect in the community and in New Zealand in totality.

- 7.64 I note that the company in 2008 employed 415 staff when operating six sea-farm sites in Marlborough Sounds, two hatcheries in Waikoropupu Springs and Tentburn; and four processing factories in Nelson (Direct Capital website).
- 7.65 What I had expected to learn from this proposal was what would the approval for each site look like into additional staff numbers for the next 35 years. There is a strong sense in the evidence by NZ King Salmon that they are not going to invest and operate all new eight sites from day one, rather a much more slower approach is being proposed. Where then is the staff numbers and wages figures that show that slow but planned increase.
- 7.66 In the Executive Summary James Douglas Marshall Fairgray notes that he believes an additional 41,000 person years of employment (undiscounted) over the 25 year period to 2036 will enter this sector. On average, this means that 1640 new staff would have entered the sector each year for 25 years.
- 7.67 If I am correct, most of this increase is expected to be taken up by this proposal, as King Salmon is the dominant player in the industry, and if I am also correct, NZ King Salmon wish to progress slowly through this process of using the farms. This means that the staff increase will in reality build up slowly over time to something like over 2000 to 3000 additional staff in 2036. Applying the time value of money (NPV), I am surprised by these findings – that the sectors direct flow on effects would contribute 3.8% of the Marlborough and 2.0% of the Nelson economy from the 2010-2026 period. (I have ignored the statement about the total growth in the South Island as I am assuming this is included). I believe these figures need to be more transparent and broken down over time, as I think the maths may lead the Board of Inquiry to take on board information that is highly variable.
- 7.68 Further, I am unsure to what extent the work force is skilled or unskilled and therefore what is the level of their wages. This is a key point when looking at changes in employment years.
- 7.69 Further, if it takes 450 to run 6 sites (average of 75 staff per site), why would in 2026 it take about 3000 men to run 15 sites in 2026 (average 200 staff per site). Given improvements in technology over that time and economies of scale, this is indeed a surprising outcome.

8.0 CULTURAL AND SOCIAL ISSUES

- 8.1 The Institute's research in preparing Report 7: *Exploring the Shared Goals of Maori* resulted in a greater understanding of the diverse goals of Maori. We also learnt that a strong foundation of trust between Maori and non-Maori is needed in order to create our optimal future for New Zealand. In particular we identified some key themes that ran through the report and are relevant in the current context. There is no direct Maori translation of 'sustainability', however, the wisdom of Maori customary values can contribute to the development and implementation of a uniquely New Zealand national framework for sustainability. We also found that Maori have considerable expertise in integrated long-term planning and decision-making, often thinking and 'dreaming' several generations into the future.

WENDY MCGUINNESS

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PROFILE

Wendy McGuinness, BCom (Auckland), MBA (Otago) and FCA, is the founder and chief executive of the McGuinness Institute. Originally from King Country, Wendy completed her secondary schooling at Hamilton Girls' High School and Edgewater College. She then went on to study at Manukau Technical Institute (gaining an NZCC), Auckland University (BCom) and Otago University (MBA), as well as completing additional environmental papers at Massey University. As a Fellow Chartered Accountant (FCA) specialising in risk management, Wendy has worked in both the public and private sectors. In 2004 she established the McGuinness Institute as a way of contributing to New Zealand's long-term future. Wendy also sits on the board of the Katherine Mansfield Birthplace.

EDUCATION & QUALIFICATIONS

Otagawai School, King Country	Primary School, Years 1-8
Hamilton Girls High Boarding School	Secondary School, Years 9-11
Edgewater College, Auckland	Secondary School, Year 12
Manukau Technical Institute, Otara	New Zealand Certificate of Commerce (NZCC)
University of Auckland	Bachelor of Commerce (BCom)
University of Otago	Masters of Business Administration (MBA)
Massey University	Additional Papers in Environmental Ethics and Philosophy
New Zealand Institute of Chartered Accountants	Chartered Accountant (CA)
Institute of Directors in New Zealand Inc	5-day live-in course, 2006
Leadership New Zealand	Forum, 20-day course over 2007
World Future Society, Washington DC	Two-day course on "Futuring" by Dr. Peter Bishop, Futures Studies, University of Houston, 2008
World Future Society, Boston	One day course on "Wiser Futures: Using Futures Tools to Better Understand and Create the Future" by Dr. Clement Bezold, founder of the Institute for Alternative Futures (IAF), 2009
New Zealand Institute of Chartered Accountants	Fellow Chartered Accountant (FCA), 2009
Harvard Business School, Boston	Five day course on "Driving Corporate Performance" Executive Education Program, 2010

CURRENT BOARDS AND OTHER ENTERPRISES

OWNER AND CHIEF EXECUTIVE	McGuinness Institute
BOARD MEMBER, 2006 - PRESENT	Board Member of the Katherine Mansfield Birthplace
AWARDED FELLOWSHIP, 2009	New Zealand Institute of Chartered Accountants
MEMBER, 2010	FutureMaker Advisory Panel
CHAIR, 2010	New Zealand Node of the Millennium Project
CHAIR, 2010	New Zealand Chapter of the World Future Society

MEMBERSHIP

New Zealand Institute of Chartered Accountants
New Zealand Institute of Directors
New Zealand Risk Management Society
Royal Society of New Zealand
Mai Chen Womens Leaders Forum
Future Thinking Aoteroa
Katherine Mansfield Birthplace

PREVIOUS BOARDS AND OTHER ENTERPRISES

MEMBER, 2002	Taskforce on Sustainable Development Reporting
CHAIR, 2003 - 2004	New Zealand Institute of Chartered Accountants National Sustainable Development Reporting Committee
JUDGE, 2004 - 2009	Sustainability Awards
COUNCILLOR, 2005 - 2007	New Zealand Institute of Chartered Accountants
WELLINGTON CONVENOR, 2006	New Zealand Institute of Chartered Accountants Sustainability Working Group
MEMBER, 2006 - 2007	Ministry for Economic Development Buy Kiwi Made Campaign reference group
CO-CONVENOR, 2006-2007	Sustainable Aotearoa New Zealand (SANZ)
ADVISORY GROUP, 2007 - 2008	Faculty of Commerce & Administration, Victoria University
BOARD MEMBER, 2008-2011	New Zealand Futures Trust
BOARD MEMBER, 2009	Natural Step
ADVISORY GROUP, 2009	Statistics New Zealand, Measuring Sustainable Development Project
CONVENER, 2010	One Integrated Report Briefing
CONVENER, 2011	StrategyNZ: Mapping our Future Workshop

Appendix 2: Institutional Framework of NZ King Salmon as at 10 August 2012 (Draft)

Name	Address	% of NZKS
Evergreen Holdings Limited (Company No LL05880) Incorporated in Malaysia	Labuan, Malaysia	50.880%
Mark Robert HUTTON	Auckland, NZ	10.072%
Ross Andrew GEORGE	Auckland, NZ	10.072%
Loops back to Level 2 - New Zealand King Salmon Investments Limited (7.49% of NZKS shares in this loop)		7.490%
Alan MILWARD and Alistair NICHOLSON (as trustees of ICOOD trust)	Auckland, NZ	6.833%
Unknown Pohutukawa Lambda Investments Limited (1543436) shareholders		5.726%
DB Valoren S.A.R.L.	Luxembourg	2.491%
Minister of Finance	Wellington, NZ	1.573%
Minister of Research, Science and Technology	Wellington, NZ	1.573%
Unknown CIP Holdings Limited (2449328) shareholders		1.562%
Bryon BURKE	Tauranga, NZ	0.470%
Loops back to Level 5 - CIP Holdings Limited (0.318% of NZKS shares in this loop)		0.318%
Te Runanga o Ngati Ruanui Trust	Hawera, NZ	0.233%
Roger Neil WILSON and Bryan Simpson HUTCHINS	Te Anau, NZ	0.202%
Stephen Robert TINDALL	Auckland, NZ	0.202%
Loops back Level 4 - CIP Holdings Limited (0.054% of NZKS shares in this loop)		0.054%
Thomas DAVIES, Timothy BANKS	Rotorua, NZ	0.053%
Deane COPE, Rhonda COPE, Kenneth BOLER	Albany, NZ	0.050%
Julian MORRIS, Patricia MORRIS, Timaru MORRIS	Gore, NZ	0.049%
Ronald LEWIS, Ainsley LEWIS, Roger MACASSEY	Dunedin, NZ	0.044%
Hamish MACKAY	Wanganui, NZ	0.043%
Murray BIRKETT, Heather BIRKETT	Te Puke, NZ	0.043%
Andrew BURN, Stan MARTIN	Tauranga, NZ	0.041%
Craig LINDBERG	Auckland, NZ	0.041%
Frank Maurice ALDRIDGE, Sharon ALDRIDGE, Andrew BURN	Tauranga, NZ	0.035%
Jodi CAREY	Tauranga, NZ	0.035%
Philip Llooyd DAY, Mary Elizabeth MCCONNON	Dunedin, NZ	0.0309%
Rosemary Sarah MCCONNON	Dunedin, NZ	0.0309%
Sandra Anne KEAY, Alison Margaret MCCONNON, David Michael MCCONNON	Arrowtown, NZ	0.0309%
Sandra Anne KEAY, Monique Deirdre MCCONNON, Alan Evan MCCONNON	Arrowtown, NZ	0.0309%
Stephanie Ellen MCCONNON, John Baird MCCONNON and Sandrea Anne KEAY	Waitati, NZ	0.0309%
John WILSON	Gore, NZ	0.018%
Direct Capital III Investment Partners LP	Auckland, NZ	0.010%
Christofer Thomas BOYLE	Gore, NZ	0.006%
Craig Alexander CARRAN	Gore, NZ	0.006%
Michael John MILLARD	Gore, NZ	0.006%
Pohutukawa I Investment Holdings LP	Auckland, NZ	0.0001%
Colin William WOOLSTEIN	Dunedin, NZ	0.00006%
Gordon Bowie SCOTT	Oamaru, NZ	0.00006%
Jarod Paul CHISHOLM	Dunedin, NZ	0.00006%
John Baird MCCONNON	Waitati, NZ	0.00006%
Justin Lindsay GEDDES	Dunedin, NZ	0.00006%
Matthew David TAYLOR	Dunedin, NZ	0.00006%
Paul William MOODIE	Dunedin, NZ	0.00006%
Philip Ian Marsden SINCLAIR	Dunedin, NZ	0.00006%
Scott Alexander MASON	Dunedin, NZ	0.00006%
Thomas Ross ALEXANDER	Dunedin, NZ	0.00006%
		100.386%

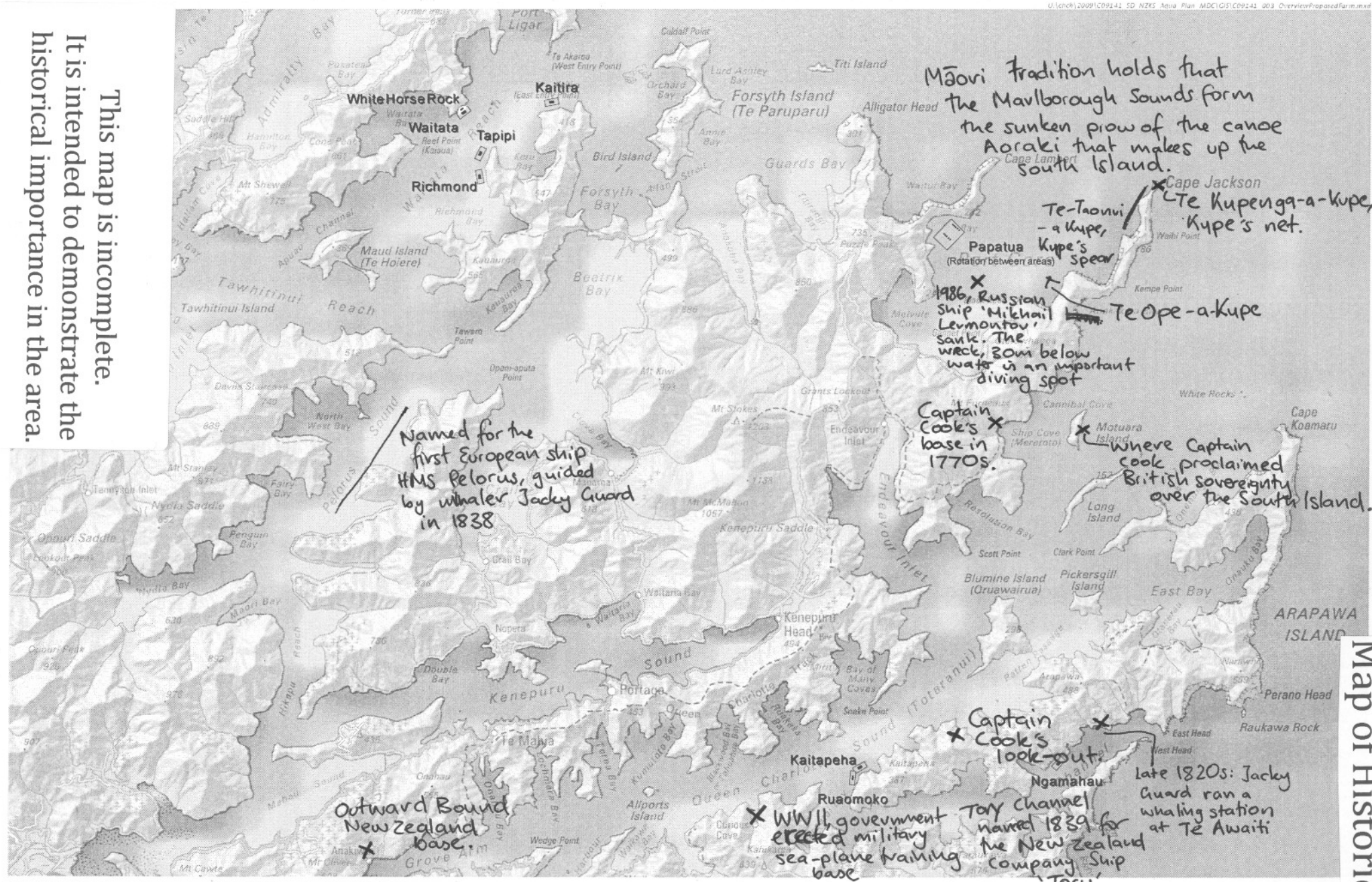
Methodology: This table uses information from 'NZKS Companies Chart'. Where a shareholder holds multiple shares through different parent companies, these shares have been combined to show the total percentage ownership.

Disclaimer: This table uses information sourced from the New Zealand Companies Office as at 8 August 2012. We appreciate that there may be slight inaccuracies and rounding errors, but we think this is something that needs further exploration. See: <http://www.business.govt.nz/companies>

Appendix 2: Institutional Framework of NZ King Salmon as at 10 August 2012 (Draft)

	Level 2	Level 3	Level 4	Level 5	Level 6	Level 7	Level 8	Level 9
New Zealand King Salmon Co. Limited (287485)	New Zealand King Salmon Investments Limited (2161790) (Owms 42,754,987 of 42,75,4987 shares) (100%)	Evergreen Holdings Limited (Company No LL05880) Incorporated in Labuan, Malaysia (Owms 12,890,290 of 25,267,695 shares) (50.88% of NZKS)						
		Direct Capital Partners Lambda Investments Limited (2162075) (Owms 3,192,513 of 25,267,695 shares) (12.63% of NZKS)	Direct Capital III Investment Partners LP (Owms 100 of 3,192,613 shares) (0.01% of NZKS)		MA Investments Two Limited (939230) (Owms 33 of 99 shares) (4.21% of NZKS) Alan MILLWARD and Alistair NICHOLSON (as trustees of ICCOD trust) (Owms 33 of 99 shares) (4.21% of NZKS) Sirius Capital Limited (939229) (Owms 33 of 99 shares) (4.21% of NZKS)	Ross Andrew GEORGE (Owms 100 of 100 shares) (4.21% of NZKS)		
			Direct Capital Partners Limited (1034285) (Owms 3,192,513 of 3,192,613 shares) (12.62% of NZKS)	Direct Capital Limited (1815716) (Owms 100 of 100 shares) (12.62% of NZKS)		Mark Robert HUTTON (Owms 100 of 100 shares) (4.21% of NZKS)		
					Deutsche New Zealand Limited (321028) (Owms 398,420 of 798,437 shares) (2.131% of NZKS)	DB Valoren S.A.R.L. (Luxembourg) (Owms 20,000,000 of 20,000,000 shares) (2.131% of NZKS) Thomas DAVIES, Timothy BANKS (Owms 8,504 of 400,017 shares) (0.045% of NZKS) Custodial Services Limited (640479) (Owms 59,798 of 400,017 shares) (0.316% of NZKS) Thomas DAVIES, Timothy BANKS (Owms 8,504 of 400,017 shares) (0.045% of NZKS) Deane COPE, Rhonda COPE, Kenneth BOLER (Owms 8,015 of 400,017 shares) (0.043% of NZKS) Julian MORRIS, Patricia MORRIS, Tamar MORRIS (Owms 7,873 of 400,017 shares) (0.042% of NZKS) Bryon BURKE (Owms 7,528 of 400,017 shares) (0.040% of NZKS) Ronald LEWIS, Ansley LEWIS, Roger MACASSEY (Owms 7,110 of 400,017 shares) (0.038% of NZKS) Hamish MACKAY (Owms 6,962 of 400,017 shares) (0.037% of NZKS) Murray BIRKETT, Heather BIRKETT (Owms 6893 of 400,017 shares) (0.037% of NZKS) Craig LINDBERG (Owms 6,563 of 400,017 shares) (0.035% of NZKS) Andrew BURN, Stan MARTIN (Owms 6,537 of 400,017 shares) (0.035% of NZKS) Frank Maurice ALDRIDGE, Sharon ALDRIDGE, Andrew BURN (Owms 6,604 of 400,017 shares) (0.030% of NZKS) John WILSON and the Hokouai Drive Trustees Limited (1282107) (Owms 6,591 of 400,017 shares) (0.030% of NZKS) Jodi CAREY (Owms 5,565 of 400,017 shares) (0.030% of NZKS) Unknown shareholders (Company has been listed on the NZX, small parcels of less than 100 shares account for 250,690 shares of 400,017) (0.226% of NZKS)	Craig Investment Partners Limited (447159) (Owms 10,000 of 10,000 shares) (0.316% of NZKS)	Loops back to Level 5 (0.316% of NZKS shares in this loop)

This map is incomplete.
It is intended to demonstrate the
historical importance in the area.





PF Olsen

2011

Founded in 1971, PF Olsen is Australasia's leading independent forestry services group. The company has 15 offices across New Zealand and Australia and employs more than 100 forestry professionals.



Scales Corporation

2011

Scales Corporation is one of New Zealand's oldest companies dating back to 1897 and one of the country's leading horticulture and primary sector processing, exporter and logistics businesses.

BAYLEYS



fishpond.co.nz



RODD & GUNN

SHEARS & MAC.



STRATEX

NZP

Shears & Mac Limited

2008

Shears & Mac is New Zealand's leading joinery manufacturer and shopfitter.

GoBus Limited

2007

GoBus Limited ('GoBus') is a leading provider of public transport services in the Waikato region, providing urban, school and charter/tour bus services.

Stratex Group Limited

2007

Stratex is one of Australasia's leading suppliers of products that contain paper, foil, and polymers.

New Zealand Pharmaceuticals

2005

NZP manufactures specialty chemicals (largely pharmaceutical intermediates) for some of the world's leading pharmaceutical companies, and also produces a range of ingredients used in dietary supplements.

New Zealand King Salmon

New Zealand King Salmon is the country's largest salmon producer supplying both the domestic and export markets. Based in Nelson and with hatcheries, farms and processing facilities across Marlborough and Canterbury, the company is highly integrated from brood stock management right through to distribution of product through its well-recognised consumer brands, Seasmoke, Regal and Southern Ocean.

In September 2008 Direct Capital invested alongside management to acquire a 45 per cent shareholding in New Zealand King Salmon.

The New Zealand King Salmon Company Limited was formed in 1996 with the privatisation and merger of New Zealand's two largest salmon companies, Southern Ocean Seafood Limited and Regal Salmon Limited. The Company is ultimately owned by the Tiong Group, one of the largest private companies in Malaysia with substantial global investments in forestry, property and the media. New Zealand King Salmon is New Zealand's largest integrated aquaculture company and the largest global farmer of the premium Chinese species of salmon. Rich in Omega 3 and other nutrients, salmon is one of the fastest growing protein categories. The company employs 415 staff and operates six sea-farm sites in Marlborough Sounds, two hatcheries in Waikarepupu Springs and Tentburn; and four processing factories in Nelson.

[¶15-785] Cancellation of shares repurchased

[Click to open document in a browser](#)

Last reviewed: 09 February 2012

New Developments for ¶15-785
Regulatory Reform Bill — Companies ¶200-216
Act 1993

Subject to the right of a company under sec 67A - 67C to hold up to 5% of its own shares in a particular class, shares repurchased following an offer by the board or the exercise of a minority buy-out right are deemed to be cancelled immediately upon acquisition: sec 66(1). Acquisition is deemed to occur, for this purpose, when the company would, were it not for cancellation of the shares, become entitled to exercise the rights attached to the shares: sec 66(2). The rights and privileges attached to a share expire on cancellation, but the share may be reissued in accordance with the provisions of the Act relating to the issue of shares: sec 66(3); see ¶15-175 et seq.

Treasury stock

A company may repurchase and effectively hold in itself, rather than cancelling, up to 5% of shares in a particular class. As an equivalent to a cross-holding involving an in-substance subsidiary, it is accounted for by way of the treasury stock method, hence the use of the term "treasury stock". The shares are not deemed cancelled if (sec 67A):

- the constitution expressly permits it;
- the board resolves that the shares will not be cancelled on acquisition;
- the maximum number of shares held by the company in the class, excluding those previously deemed cancelled under sec 66(1), must not exceed 5% of that class.

The shares may later be cancelled by board resolution: sec 67A(3).

The rights and obligations attaching to the shares that the company holds in itself are suspended while the company holds the shares: sec 67B(1). In particular, no voting or distribution rights can be exercised in respect of the shares.

The treasury stock may later be sold by the company. For that sale, the *Companies Act* 1993 does not apply and the company's constitution only applies where expressly stated. Consideration for the sale must be decided by the board in the same way as for the usual issue of shares under sec 42 or 44: sec 67C(1). However, a directors' certificate as to the consideration is not required where the transfer is made through a scripless trading system approved by the *Securities Transfer Act* 1991: sec 67C(2).

Options to acquire or obligations to transfer the treasury stock cannot be entered into where the company has received written notice of a takeover scheme or where, if the company is a party to a listing agreement, the stock exchange gives notice to the market that a takeover offer for more than 20% of the company's shares is to be made: sec 67C(4).

Law: sec 66, 67A, 67B, 67C.