

PRESS RELEASE

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NZKS Blue Endeavour consent now includes a climate change review condition

The Environment Court issued a consent order on Tuesday formally resolving both appeals against the Blue Endeavour consent. The McGuinness Institute welcomes the fact that the mediated consent now includes a climate change review condition.

Background

Following a hearing in Blenheim in 2021, Marlborough District Council commissioners announced their decision to approve NZKS's application to establish two salmon farms within a 1,000-hectare site in Cook Strait, 7km north of Cape Lambert. The decision enables NZKS to discharge up to 10,000 tonnes of feed per annum per salmon farm, in total a maximum discharge of 20,000 tonnes per annum every year for 35 years.

The Department of Conservation and McGuinness Institute both appealed Marlborough District Council's decision. In the Institute's view the commissioners did not take climate change into account. The appeals went to Court-assisted mediation, and the Court issued the consent orders yesterday formalising the Blue Endeavour consent and mediated conditions. The final step in the process is for the Ministry of Primary Industries (MPI) to be satisfied that the consent will not have an undue adverse effect on fishing (see Fisheries Act 1996, s186C).

Key changes from the mediation

The key changes the Institute was able to secure through the mediation are:

- A climate change review condition: the addition of an explicit trigger to enable Council to review the consent after 10 years (and every 5 years after that) to address climate change effects;
- Extension of the period for gathering baseline data about seabirds and marine mammals to cover an additional 18 months prior to construction;
- More onerous operational monitoring conditions, to require operational monitoring for the first 5 years after the farm is stocked, and repeated operational monitoring in the 10th and 15th years after the farm is first stocked;
- Tightening of the obligations to avoid entrapment or entanglement of threatened marine mammal species, and avoid adverse effects on threatened seabirds, so as to better enable Council to enforce these outcomes;
- More onerous reporting obligations so that in addition to reporting entrapment/entanglement of marine mammals, NZKS must report all observations and interactions with marine mammals;
- Addition of two further monitoring stations to better assess the impacts of farm discharges on Te Mehe Mahinga/McManaway Rocky Reef;
- Improvements to the benthic monitoring conditions to ensure they are fit for purpose and use best scientific methodologies.

We hope that Marlborough District Council will ensure these changes are complied with in order to help protect the flora and fauna in the Marlborough Sounds and Cook Strait.

More broadly, we hope commissioners in the future will take into account climate change and, where appropriate, consider adding a climate change review condition when considering applications of ten or more years.

Climate change

The application came about because NZKS was looking for cooler water due to the rise of water temperatures in the Marlborough Sounds, causing a significant rise in mortalities (i.e. climate change was the catalyst), but in the Institute's view the Council's commissioners failed to consider the impact of climate change on the wider environment over the 35 year consent period. This is illustrated by climate change being mentioned only six times in the initial 120-page decision, with four of these mentions being due to comments raised by the Institute. 'This is not good enough, given the climate emergency,' says McGuinness Institute executive director Wendy McGuinness.

The operational practice of NZKS pollutes the sea, largely due to the large amount of feed, which is excreted as urea (salmon faeces). However, the effects can be mitigated by collecting the faeces and disposing in a more contained manner or even in a new by-product. The impacts on marine flora and fauna can be further mitigated by locating farms on land, or at least away from significant habitats of important fauna such as whales, dolphins and seabirds.

In McGuinness's view the precautionary approach should have prevailed because of what we do not know. We do not know enough about the seabirds and megafauna that also inhabit Cook Strait, and how over time, climate change, when combined with the location of the farms, might negatively impact them.

'The baseline data of fauna in the Blue Endeavour site was not undertaken to a standard one would expect given that Cook Strait is internationally recognised as the seabird capital of the world and one of the marine mammal capitals of the world,' says Wendy McGuinness. 'In our view the decision failed to consider the species that live and operate around us, because the data was not comprehensively collected.'

McGuinness says, 'There are many ways these risks can be managed and mitigated; see our September 2023 [Discussion Paper 2023/04 – Exploring the role of aquaculture in our marine space.](#)'

Summary

It is essential we do not simply apply public policy that has been developed for land to our oceans. Firstly, our public policy frameworks on land have not always been successful. Secondly, water and marine flora and fauna move (the marine space cannot be fenced like land). Lastly, our marine space cannot and should not be privately owned. The Blue Endeavour decision permits the company to pollute the water in Cook Strait for 35 years, without paying for the use of the marine space (there is no charge). An equivalent on land would be for a Council to permit a dairy farmer to use and pollute public land for 35 years, without being required to purchase the land, or contribute to society through paying rates or water charges.

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About

The McGuinness is a non-partisan think tank applying hindsight, insight and foresight to explore major challenges and opportunities facing New Zealand over the long term.

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