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Memo To: Hearing Panel for Application U190438

From: Mr P Johnson – Environmental Planner

Subject: U190438 – Precautionary approach

1. This memorandum is provided in response to the verbal request made by Commissioner Enright during day 8 (21 December 2021) of the hearing for me to identify any provisions within the lower order planning documents which reflect Policy 3 of the New Zealand Coastal Policy Statement 2010 (NZCPS), concerning the precautionary approach.
2. NZCPS Policy 3 states:
 1. *Adopt a precautionary approach towards proposed activities whose effects on the coastal environment are uncertain, unknown, or little understood, but potentially significantly adverse.*
 2. *In particular, adopt a precautionary approach to use and management of coastal resources potentially vulnerable to effects from climate change, so that:*
 - a. *avoidable social and economic loss and harm to communities does not occur;*
 - b. *natural adjustments for coastal processes, natural defences, ecosystems, habitat and species are allowed to occur; and*
 - c. *the natural character, public access, amenity and other values of the coastal environment meet the needs of future generations.*
3. I have considered the following lower order documents in preparing this response:
 - Marlborough Regional Policy Statement
 - Marlborough Sounds Resource Management Plan
 - Proposed Marlborough Environment Plan

Marlborough Regional Policy Statement (MRPS)

4. I would note here that although the MRPS dates from 1995 and thereby precedes the NZCPS by 15 years, the MRPS gave effect to the NZCPS 1994 which had a similar policy concerning the precautionary approach, that being Policy 3.3.1.
5. The precautionary approach is mentioned twice in the MRPS. The first mention appears in Part 3 of the MRPS which sets out a number of general principles which underlie the MRPS. Principle 3.6.1 states:

Where insufficient information about actual or potential adverse effects is available resource management policies and plans will take a precautionary approach to the use and development of resources to ensure there are no adverse effects on the environment.
6. The second mention appears in the explanatory text to Policy 7.2.10(d), which concerns the allocation of coastal space for aquaculture. The text relevantly states:

It is acknowledged that there is little information to assess the effects of aquaculture on the sustainability of the marine habitat. The allocation of space for aquaculture requires research into the effects of aquaculture on the nutrient availability for marine habitats. It could be many years before meaningful research is completed. In the interim the allocation of marine space will be undertaken in a precautionary manner. This will place an onus on applicants to provide a detailed assessment of the effects of their proposal.

Marlborough Sounds Resource Management Plan (Sounds Plan)

7. The precautionary approach is mentioned several times in the Sounds Plan. However, only the following instance is of any relevance to the subject application, found under 2.2 of Chapter 2 – Natural Character:

Policy 1.7: To adopt a precautionary approach in making decisions where the effects on the natural character of the coastal environment, wetlands, lakes and rivers (and their margins) are unknown.

Proposed Marlborough Environment Plan (PMEP)

8. The precautionary approach was discussed in many places in the PMEP decision document and features several times in the PMEP itself. However, only two of those instances are of some relevance to the subject application. The first is found in the explanatory text to Objective 4.3 in Chapter 4 – Sustainable Management of Natural and Physical Resources.

9. Objective 4.3 states:

The maintenance and enhancement of the ecological physical, and cultural qualities and amenity values that contribute to the character of the Marlborough Sounds.

10. The explanatory text relevantly states:

The objective seeks to maintain the ecological, physical and cultural qualities, and amenity values, that contribute to the iconic character of the Marlborough Sounds as a base from which enhancement can commence. This will ensure that the community and visitors to the district can anticipate improvement of this environment now and into the future. This does not mean that use and development of natural and physical resources cannot occur within the Marlborough Sounds, but precaution needs to be exercised to ensure that resource use is complimentary to the ecological, physical and cultural qualities, and amenity values that give the Marlborough Sounds this iconic character.

11. The second relevant mention of the precautionary approach is found in the explanatory text to Policy 8.1.2 in Chapter 8 – Indigenous Biodiversity.

12. Policy 8.1.2 states:

Sites in the coastal marine area and natural wetlands assessed as having significant indigenous biodiversity value will be specifically identified in the Marlborough Environment Plan.

13. The explanatory text relevantly states:

A buffer is also identified around all category A and B ecologically significant marine sites. A buffer recognises that habitats on the sea bed are vulnerable to disturbance from activities conducted in the coastal marine area. Those activities cannot necessarily be undertaken in a precise manner to avoid the adverse effects of seabed disturbance, particularly given the physical separation between the sea surface and seabed. In these circumstances, a buffer represents a precautionary approach to the protection of the Ecologically Significant Marine Sites.



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