

IN CAMERA

THE LEGISLATIVE COUNCIL SESSIONAL COMMITTEE GOVERNMENT
ADMINISTRATION A MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE,
HOBART ON FRIDAY 21 FEBRUARY 2020.

FINFISH FARMING IN TASMANIA

Professor BARBARA NOWAK AND Ms LOUISE CHERRIE WERE CALLED, MADE THE
STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR (Ms Webb) - [REDACTED]

[REDACTED]

[REDACTED]

Professor NOWAK - I want to start by introducing us. I am Barbara Nowak and this is Louise Cherrie. We joined the Marine Farming Planning Review Panel at the same time. We didn't know each other when we joined it. I joined it as an expert in aquatic animal health and marine biosecurity, and Louise joined it as an expert in environmental management. Louise has expertise in environmental consulting and she has been working with lots of different industries, including primary industry and aquaculture, but not primarily aquaculture. She works more with mining, forestry and other industries.

[REDACTED]

CHAIR - [REDACTED]

Professor NOWAK - [REDACTED]

[REDACTED]

[REDACTED]

We both really support sustainable aquaculture and we thought that by joining the panel we could improve the aquaculture management, advise the minister on aquaculture and the sustainability of aquaculture long term in Tasmania.

Unfortunately, that wasn't possible. We were very frustrated with the marine farming approval process. We were not able to provide advice. The panel had very limited ability

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We felt we were unable to respond to new knowledge and situations to suggest any changes. We were just supposed to propose approval of a draft plan. [REDACTED]

[REDACTED] We could recommend rejection of a draft amendment, but for the draft plan the only option for us was to recommend approval. So we found ourselves in a very difficult position and we tried first to go through the department, the minister, the department secretary. We talked to many people and were given sometimes misleading information.

Ms FORREST - [REDACTED]

Ms CHERRIE - [REDACTED]

Professor NOWAK - [REDACTED]

Ms CHERRIE - The fact that you can only recommend approval, in practice and under the legislation, is absolutely correct. What you can do is bounce it back and bounce it back, but it will eventually come back to you and you eventually have to approve it. There's no way out. When these Storm Bay ones were proposed, applications were made, and then the world changed because we had Macquarie Harbour, this lived history of harm, and we had a virus crop up, but because they had made application, they will get approved. The panel was unwilling to address the changes, so we go back - 'You will approve'. We can't recommend approval. The world changed and there was no appetite and no legislative backing for that change for us to learn and do better.

Professor NOWAK - The only thing we were allowed to do was introduce management controls and the chair advised us the management controls will be irrelevant in a few years anyway, and another member of the panel said industry can't be controlled so the management controls are all useless. Other members of the panel were of the view that we should leave the management controls to the department and minister [REDACTED]

In the end we felt very, very frustrated and decided the only way to go would be to resign, despite really wanting to support the industry contributing to the state's sustainable growth. What we were hoping to achieve in the end - we would really like to change aquaculture industry planning and that would obviously require changes to the legislation because the panel is embedded in the legislation, and increase transparency and accountability in the planning process. Currently because the panel is presented as an independent panel - but it's not - the public has a lot of suspicion that it's not working the way it should work and they are not really aware how it should work from the point of view of the department and minister. I think there is a lot of confusion about what the panel is doing. It's not independent at all.

Ms FORREST - There is confusion about whether the panel is independent or not. If the panel is operating according to the legislation which says you can only approve the plan, they are acting according to the legislation.

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Professor NOWAK - [REDACTED]

CHAIR - [REDACTED]

Professor NOWAK - [REDACTED]

Ms CHERRIE - [REDACTED]

Mr FINCH - [REDACTED]

Ms CHERRIE - [REDACTED]

Mr FINCH - [REDACTED]

Ms CHERRIE - [REDACTED]

Mr VALENTINE - [REDACTED]

Ms CHERRIE - Yes, it wasn't objective, it wasn't science-based, it wasn't based on engineering principles. It wasn't based on evidence, it was based on opinions. My opinion of the salmon industry is that I hope it has a really long and massively prosperous future. I think if it can make a lot of money, it absolutely should, but just not to the detriment of other users of that resource and other people who want to enjoy that amenity. They are compatible goals. You can have greater economic performance and greater environmental performance.

CHAIR - Can you talk us through how the panel goes about weighing and considering those different interests and outcomes?

Ms FORREST - And what you can consider.

CHAIR - Exactly, that's what I want to hear about. What tangibly happens within the panel to weigh those things against each other?

Ms CHERRIE - [REDACTED]

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CHAIR - [REDACTED]

Ms CHERRIE - Yes, that was one of the problems. Because they haven't actually identified the natural values or really mapped the use of Storm Bay to the level where you can say these are people with an interest in this body of water, these are the people we need to consult with - that's not done.

If I think about what we would do sensibly, there's no evidence for everything. Sometimes you just go, what would be sensible here? What would be in keeping with the public interest and industry interest? Really for me it comes back to understanding a bit of the science and what the system can handle. If the system can handle it - you know what? - let them go a bit, let them have it. But the science wasn't there to say what the system could handle it, therefore we were just letting them run away with it without having the foundations strong.

You weigh it up based on professional inference and available information. Those public hearings were important. Having said that, I've done a lot of community consultation on big, dirty, meaty mining issues, and they are very emotional. Emotion is sometimes not helpful, but sometimes it's telling of how big an issue is. [REDACTED]

Professor NOWAK - [REDACTED]

Mr VALENTINE - There were no principles you had to measure things against?

Ms CHERRIE - There was never a statement of expectation or intent. I used to sit on the EPA board where the minister would write to you and say 'This is what I expect you to do and how I expect you to discharge yourself', and as a board we would write back and go 'Yes, we can do that and this is the way we will do it.'. There is none of that for the panel. Coming back to your point:

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if we were deliberating a particular aspect and not enough information was being submitted by the developers or provided by the EPA or the marine branch, we would seek more information.

Ms FORREST - On that point, in the submission you said -

We were not allowed to consider the previous salmon industry issues in Macquarie Harbour as they were considered irrelevant by other members of the Panel.

Can you talk me through that? Why were you not allowed to consider that?

Ms CHERRIE - We were told repeatedly 'They are different systems and we have moved on from then and things have changed', but in reality, you earn your right to grow. Any industry earns its right to grow. You earn it by your history and your reputation and what you deliver. They had not earned their right to grow through Macquarie improved. I did my own due diligence on this exact issue of Macquarie Harbour outside of meetings. Nobody wanted to talk about it in meetings - 'We don't talk about Macquarie Harbour' - it was the elephant in the room.

All right, but I needed to know they had earned their right to grow, so I spent time with the EPA director and said, 'Show me how they went, show me the sampling under and around cages, show me what they did when a sample was poorer or indicated environmental harm. How did they respond to that? How did they work with you? Were they respectful?'

Ms FORREST - Did you look at all three companies?

Ms CHERRIE - Yes, and you will notice in none of what we have written and today I am not talking about any companies; [REDACTED]

Mr VALENTINE - It is the process.

Ms CHERRIE - It is the process. I went and looked and saw a particularly bad sample. What happened then is it showed me letters written back; eight months later we are destocking that cage. The problem with that is we have thrown all our eggs into the adaptive management basket, which is 'Let's throw cages in and see how it goes.'. That is lazy management and lazy science. No land-based development in Tasmania is approved on an adaptive management as their strategy.

As with putting a mine in, you are not going to start discharging tailings and see how the river responds to it. You plan it, engineer it, put filtration and treatment in and understand what you are going to monitor and what your trigger levels are before you are approved. With marine farming, we stick cages in and we suck it and see. It is inappropriate. From an environmental management perspective, we are saying come on; the plausible scenarios are clear, the global experience on what goes wrong, so let's get plans for every one of those plausible scenarios because that is reasonable. Let's get sampling programs and the right analysis and the right response, so we can see things happening and can respond.

Ms FORREST - When you did your own due diligence with what happened in Macquarie Harbour, what then did you try to take back to the panel in terms of assessing the proposal before you?

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Ms CHERRIE -



Ms FORREST -



Mr VALENTINE -



Ms CHERRIE -



Ms FORREST -



Ms CHERRIE -



CHAIR -



Ms CHERRIE -



Professor NOWAK -



Ms CHERRIE -



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Professor NOWAK - [REDACTED]

CHAIR - [REDACTED]

Professor NOWAK - [REDACTED]

Ms FORREST - [REDACTED]

Ms FORREST - [REDACTED]

Professor NOWAK - [REDACTED]

Ms CHERRIE - [REDACTED]

Professor NOWAK - [REDACTED]

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Ms CHERRIE - [REDACTED]
[REDACTED]

Mr VALENTINE - [REDACTED]

Ms CHERRIE - [REDACTED]

Professor NOWAK - [REDACTED]

Ms FORREST - [REDACTED]
[REDACTED]

Ms CHERRIE - [REDACTED]
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Professor NOWAK - [REDACTED]
[REDACTED]

Ms CHERRIE - [REDACTED]

Professor NOWAK - [REDACTED]

Ms CHERRIE - [REDACTED]
[REDACTED]

Ms FORREST - [REDACTED]

Ms CHERRIE - [REDACTED]

CHAIR - [REDACTED]

Ms CHERRIE - [REDACTED]

Mr FINCH - [REDACTED]
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Professor NOWAK - [REDACTED]
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Ms CHERRIE - [REDACTED]

Professor NOWAK - [REDACTED]

CHAIR - [REDACTED]

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Ms CHERRIE - [REDACTED]

CHAIR [REDACTED]

Mr VALENTINE - [REDACTED]

Ms CHERRIE - [REDACTED]

CHAIR [REDACTED]

Professor NOWAK - [REDACTED]

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Ms FORREST - [REDACTED]

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Ms CHERRIE - [REDACTED]

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Professor NOWAK - [REDACTED]

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Mr VALENTINE - [REDACTED]

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Ms FORREST - [REDACTED]

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Professor NOWAK - [REDACTED]

Ms CHERRIE - [REDACTED]

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Ms FORREST - [REDACTED]

Professor NOWAK - [REDACTED].

Mr VALENTINE - [REDACTED]

Ms FORREST - [REDACTED]

Professor NOWAK - [REDACTED]

Ms FORREST - [REDACTED]

Ms CHERRIE - [REDACTED]

Professor NOWAK [REDACTED]

CHAIR - Can I put it to you that when we spoke with the department the other day they characterised your disagreements with the other panel members as just differences in scientific opinion, and that can happen, and then you stepped away because you were disgruntled with the process?

Professor NOWAK - For us it was the process but not because of differences in scientific opinion. There was no other expert on the panel who spoke about aquatic animal health or biosecurity. The industry talked about it sometimes, based on their experience apparently and also what they wanted to achieve. [REDACTED]

CHAIR - You'd gather this mass of information which, by the look of it, involves a mass of information and all these submissions from external parties, and then consideration of all that can go in different ways. What happened in your situation was that you both had a view and everybody else had a different view?

Ms CHERRIE - No, not really. It was simply the fact that we weren't allowed to consider the glaringly obvious. As a scientist, I would go, 'Here are all the things we know and that are unrefutable - the experience in Macquarie Harbour, POMV's existence - we need to respond to those.'. It was us trying to respond to the changes that was refuted. There were many occasions where I learned a lot from other panel members in areas outside my expertise and I enjoy learning. I don't mind being wrong. Present me with information and that is fine, but my whole business is an assurance business. This whole thing fell apart when I started to say 'Okay, that's great so show me how practically that will work.'.

Mr VALENTINE - [REDACTED]

Ms CHERRIE - [REDACTED]

Professor NOWAK - I also think the main problem is the fact that the panel is very ineffective. It doesn't really have any role, to be honest. It doesn't really do quality control. Most members are aware of it and they mostly say just don't do anything because we have to approve it anyway. It is a waste of taxpayers' money, in my view. Having an independent panel where the public believes they are independent people when they are not, I think is just lack of transparency and it shouldn't be happening like this.

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CHAIR - Do you have a suggestion as to what could be modified or changed about that mechanism of the panel that would have it fulfil a worthwhile function in an accountable way?

Professor NOWAK - If you have a panel that is advisory and has representatives from other stakeholders, not just someone who represents aquaculture - because if you look at membership of the panel, there are different skills, but then there is someone who knows things about aquaculture who represents aquaculture. Why not have other stakeholders who have interests and use the marine environment? Or we don't have a panel at all because all the roles we were doing could be done by the department - and it would be done obviously - it's not independent, which it's not.

Ms FORREST - Is it a role that could be done by the EPA or is that separate again?

Professor NOWAK - Yes, that's what I am saying.

Ms CHERRIE - That's exactly the same way as land-based developments happen under the Environmental Management and Pollution Control Act - EMPCA. Somebody puts in a proposal and they prepare all their plans. The department considers it. They get together with all the scientists in the relevant areas and they thrash it out, sometimes over two or three years. They work up a development that is worthy, all the bugs have been ironed out, of coming to the EPA board and you only send it when it is worthwhile.

What we looked at, from the environmental management perspective, was an eight-page environmental management plan for the state's largest industrial development ever. That is not appropriate. I cannot form a view on an eight-page environmental management plan. Tell me where your sampling is going to be. Tell me how you are going to manage mortalities. Tell me how you are going to wash your fish, tell me, tell me. But if you do not think those things through when they are normal operational things, it was a waste of time. Certainly, for me, my whole business is assurance, helping people deal with really big, meaty polluting public issues.

Ms FORREST - Is it appropriate then for the EPA to assess a marine farming plan and/or amendment, as well as apply the standards related to the environmental assessments?

Ms CHERRIE - They are separate groups within the EPA. There is an assessment branch that does developments and looks at applications, and a regulation branch that, okay, you have approved it, we will regulate it to that standard.

Ms FORREST - You believe that could work?

Ms CHERRIE - Yes, absolutely.

Professor NOWAK - [REDACTED]

Mr FINCH - [REDACTED]

Ms CHERRIE - [REDACTED]

Mr FINCH - [REDACTED]

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Ms CHERRIE - [REDACTED]

Professor NOWAK - [REDACTED]

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THE WITNESSES WITHDREW.