



Environmental Defenders Office

1 December 2023

Rami Greiss
Executive General Manager
Consumer and Fair Trading Division
Australian Competition and Consumer Commission
23 Marcus Clarke St
CANBERRA ACT 2601

Via email: rami.greiss@accc.gov.au

Dear Rami

Potentially false, misleading or deceptive representations relating to salmon products

1. We act for Living Oceans Society, Neighbours of Fish Farming, Eko and Bob Brown Foundation.
2. Our clients request that the Australian Competition and Consumer Commission (**ACCC**) investigate whether certain labelling on seafood products and promotional and signage materials found in supermarkets may breach the *Australian Consumer Law (ACL)*, being Schedule 2 to the *Competition and Consumer Act 2010* (Cth), and in particular ss 18, 29 and 33.
3. Our clients' concerns relate to the use of certain terms, such as 'responsibly sourced', 'responsibly farmed' and 'best aquaculture practice', on salmon packaging and on promotional materials and signage in supermarkets as well as online shopping, which connote that the products on which they appear were farmed in an environmentally and ecologically sustainable manner (the **Statements**).
4. Our clients consider that such terms may be false, misleading or deceptive or likely to mislead or deceive, because:
 - a. they include broad and unqualified claims about responsible sourcing of salmon without sufficient disclaimer of the limitations of the claim so as to enable consumers to understand the true meaning; and
 - b. the products in relation to which the Statements are made include salmon farmed in Macquarie Harbour, which, contrary to the representations conveyed by the Statements, has been shown to have devastating impacts on the endangered Maugean skate and the surrounding environment.
5. Several examples of the claims of concern to our client are set out at Annexure A (seafood packaging) and Annexure B (promotional materials and signage in supermarkets). These examples are provided to illustrate the issues of concern, however they are not intended to be

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exhaustive, as the claims of concern span a very significant number of salmon retailers. This includes salmon products sold by ALDI, Coles and Woolworths supermarkets which have a 'Responsibly Sourced' logo, including the supermarkets' own brand products and Tassal brand products, or a 'Best Aquaculture Practices' logo, including Petuna brand products.

6. Our clients note the ACCC's Compliance and Enforcement Priorities for 2023-2024 which include 'consumer, product safety, fair trading and competition concerns in relation to environmental claims and sustainability'.¹ Our clients also note that the issues raised here meet several other matters to which the ACCC will give consideration including that they:
 - a. relate to a matter of significant public interest, relating to the Maugean Skate, an endangered species; and
 - b. concern national conduct by large traders, the largest supermarkets in Australia.

Reasons why the Statements may be false, misleading or deceptive

Relevant principles

7. Section 18 of the ACL prohibits a person from engaging in conduct in trade or commerce that is misleading or deceptive or is likely to mislead or deceive.
8. Section 29 of the ACL prohibits the making of a range of specific false or misleading representations about goods and services in connection with the supply or possible supply of those goods or services (including in relation to the standard, quality, value, grade, composition, style, model, history or previous use of goods).
9. Section 33 of the ACL also prohibits conduct that is liable to mislead the public as to the nature, manufacturing process, characteristics, suitability or quantity of any goods.
10. The ACCC's draft guidance on environmental and sustainability claims (**draft guidance**) relevantly includes:²
 - a. Principle 1: Make accurate and truthful claims, which states that if a claim is not true or only partially true, it should be changed or not made at all;
 - b. Principle 3: Do not hide important information, which states that the most important question to ask is whether the overall impression created would be misleading to the ordinary and reasonable consumer;
 - c. Principle 5: Avoid broad and unqualified claims, which states that terms which convey sweeping benefits that can mean different things to consumers, such as 'sustainable' and 'environmentally friendly', may easily mislead consumers in the absence of qualification or clarification; and

¹ ACCC, 'Compliance and enforcement policy and priorities 2023-24', <https://www.accc.gov.au/about-us/accc-priorities/compliance-and-enforcement-policy-andpriorities>.

² ACCC, *Environmental and sustainability claims: Draft guidance for business* (July 2023) https://www.accc.gov.au/system/files/Environmental%20and%20sustainability%20claims%20-%20draft%20guidance%20for%20business_web.pdf.

d. Principle 7: Visual elements should not give the wrong impression, which states that where a logo from a local or international environmental certification scheme is used, the overall impression created should be considered and whether any further information or explanation is required to ensure consumers are not misled. The draft guidance states that a certification logo should not be used in a way that implies ‘that the certification scheme means certain environmental benefits have been certified as having been achieved when it does not’.³

11. For the following reasons, our clients consider that the Statements may breach ss 18, 29 and/or 33 of the ACL, including because of the inconsistency of the Statements with the ACCC’s draft guidance, and in particular Principles 1, 3 and 7.

Broad and unqualified claims

12. The Statements are made in broad and unqualified terms on the packaging and advertising material, without clarification of the specific meaning or qualification of the claims and any relevant limitations accompanying the Statements where they are made.

13. For example, many of the Statements include the words ‘responsibly sourced’. Consumers may have different understandings of what ‘responsibly’ means and are likely to assume that all aspects of the farming and production of the salmon are undertaken in accordance with best practice and without causing any harm. Similarly, the term ‘best aquaculture practice’ is likely to be understood to be verifying that no detriment is caused by the farming of salmon.

14. Various Statements also use visual imagery such as ‘responsibly sourced’ logos in conjunction with the salmon products featuring marine pictures, without further details of what the logo means.

15. In the context of consumer purchasing decisions, it is particularly important that claims are clear on their face as they are frequently relied on by consumers to make quick decisions in limited time while shopping, without looking into other sources of information such as websites or certification information.

16. None of the examples of product packaging containing the Statements, included at Annexure A, provide sufficiently clear information to consumers about the specific meaning of, and qualifications on, the Statements.

17. Some of the Statements in promotional and signage materials in supermarkets included at Annexure B refer to the supermarkets’ websites, however these limited references to further information are insufficient to negate the potentially misleading or deceptive impression created by the headline statements. The actual qualifications and disclaimers applicable to the claims contained in that additional material are not drawn to the attention of consumers.⁴

³ Ibid, page 30.

⁴ *Australian Competition and Consumer Commission v Jetstar Airways Pty Ltd* [2015] FCA 1263; [2016] ATPR 42-523 at [40] (Foster J) and endorsed in *Viagogo AG v ACCC* [2022] FCAFC 87 at [45].

18. For example, instore advertising and signage for Woolworths brand salmon states ‘100% of Woolworths Own Brand Seafood is responsibly sourced’ beside a ‘Responsibly Sourced’ logo (see Annexure B). In small text beneath this are the words ‘Find out more at [woolworths.com.au/greener](https://www.woolworths.com.au/greener)’. This website contains various information about Woolworths’ sustainability measures, including the responsibly sourced logo used by Woolworths under the heading ‘Our approach to sustainable sourcing’ which, when clicked, redirects to an online shopping page with various seafood products with a large heading ‘100% of Woolworths Own Brand Seafood is responsible sourced.’ Under this heading are the following words in a smaller font:

At Woolworths, we are committed to sourcing seafood that is third-party certified or independently verified as ecologically responsible. Look for products that feature our “Responsibly Sourced” symbol, which means the seafood you are buying comes from ecologically responsible sources and meets the requirements laid out in our Woolworths Seafood Sourcing Policy.

19. Woolworths Seafood Sourcing Policy is a five page policy document which states, among other things, that Woolworths Group will preferentially source farmed seafood that is Aquaculture Stewardship Council (ASC) certified and assessed against the ASC Chain of Custody Standard or Best Aquaculture Practices (BAP) Farm Standard certified or GLOBAL G.A.P. (GGN) certified (noting different certification schemes apply to non-farmed seafood).⁵ To properly understand what Woolworths’ ‘responsibly sourced’ statement conveys, therefore, a consumer would need to look into the details of each of these certification schemes. Further, even when the detailed policy is read in full, it would still not be clear to a consumer which of the certification schemes applies to each individual product.

20. A reasonable consumer would likely understand that the Statements represent that the salmon were farmed in an environmentally and ecologically sustainable manner, which is likely to be contrary to what is actually being certified by the third party schemes in many instances. In a ‘secret shopper’ survey conducted by Eko, respondents’ answers to the question ‘Looking at Tasmanian salmon and ocean trout sold, what do you think the sustainability claims and logos mean?’ included the following:

- a. ‘That I’m buying something that’s good for me and good for the environment’
- b. ‘they give the impression of being harvested by responsible methods’
- c. ‘environmentally benign product’
- d. ‘That they care about the environment and fish’
- e. ‘That the salmon is being farmed in such a way that does not constitute a significant threat to the natural environment and eco-systems.’
- f. ‘That the farming practices are environmentally, socially and economically sustainable.’

⁵ Woolworths Group Seafood Sourcing Policy (April 2023)
https://www.woolworthsgroup.com.au/content/dam/wwg/sustainability/documents/Apr22Seafood%20Sourcing%20Policy%20Document_A4%20RGB.pdf.

- g. 'It means that the production of this fish does not harm the environment.'
 - h. 'That the fish is responsibly sourced and the company cares about sustainability, the environment, the community and fish'
 - i. 'Responsibly sourced - should be sustainable and have low environmental impact especially on native species'
 - j. 'Responsibly farmed (ethical, healthy, minimal environmental impact)'
 - k. 'Good for the environment and oceans.'
21. Several respondents also noted that there was no detail on the product packaging about what the sustainability claims and logos mean, rendering it difficult or impossible to answer.
22. The details of Coles' responsibly sourced seafood framework for farmed seafood such as salmon similarly include that meeting Coles Own Brand seafood products must be certified against ASC, BAP or GGN.⁶ Likewise, Aldi's policy states that it considers seafood products 'responsibly sourced' if they are certified by certification bodies including ASC, BAP and GGN.⁷
23. The ACCC has emphasised in Principle 7 its draft guidance in relation to the use of logos and visual imagery that, where a logo from a local or international environmental certification scheme is used, the overall impression created should be considered and whether any further information or explanation is required to ensure consumers are not misled. The logos themselves in the case of responsible seafood are not certified schemes but refer to certifications to base their claims. We consider these comments are also relevant to the use of general terms which rely on international certification schemes. The use of general phrases without providing sufficient details to consumers of what they mean may be false, misleading or deceptive in representing that certain environmental benefits have been certified as having been achieved when that is not what the certification schemes mean.
24. Moreover, there is significant confusion and uncertainty created for consumers by referring to various third party certification schemes. The confusion that can be created by the proliferation of different and overlapping certification schemes has been recognised by the ACCC. In the findings of its internet sweep, the ACCC observed that there has been a proliferation of certification schemes and noted that it can be difficult for consumers to understand what every certification scheme means and how robust the scheme is. The ACCC specifically noted in this context that during the sweep it identified references to at least 4 different seafood or aquaculture certification trade marks.⁸ A search of IP Australia's database shows that there are

⁶ See Coles Group, 'Responsibly sourced products and ingredients'

<https://www.colesgroup.com.au/sustainability/?page=responsible-sourcing>.

⁷ Aldi, 'Responsibly Sourced Fish and Seafood at ALDI', [https://www.aldi.com.au/en/sustainability/good-planet/sustainable-fish-and-seafood/#:~:text=Our%20seafood%20is%20responsibly%20sourced&text=Well%2C%20products%20can%20be%20considered,Practices%20\(BAP\)%20or%20Global%20G.A.P.](https://www.aldi.com.au/en/sustainability/good-planet/sustainable-fish-and-seafood/#:~:text=Our%20seafood%20is%20responsibly%20sourced&text=Well%2C%20products%20can%20be%20considered,Practices%20(BAP)%20or%20Global%20G.A.P.)

⁸ ACCC, *Greenwashing by businesses in Australia – findings of ACCC's internet sweep* (Final Report, March 2023) <https://www.accc.gov.au/about-us/publications/greenwashing-by-businesses-in-australia-findings-of-acccs-internet-sweep> page 7.

at least nine ‘responsibly sourced’ trademarks related to seafood products registered by various owners.⁹

25. In our clients’ view, there is far from sufficient attention drawn to the considerable qualifications and limitations on the claims, which are in broad and unqualified language contrary to Principle 5 of the ACCC’s draft guidance. Further, even when reference is had to the underlying certification framework, there is considerable uncertainty about what actual requirements have been met in respect of a specific product.

Omission of material information: impacts on Maugean skate

26. As well as using broad language, the claims omit important information about the impacts of salmon farming in Macquarie Harbour on the Maugean skate.
27. Many of the Statements referred to in Annexures A and B are made in relation to Tasmanian salmon, which likely includes salmon farmed in the Macquarie Harbour, which has been shown to have severely detrimental effects on the endangered Maugean skate.
28. The Maugean skate is currently listed as endangered under both Tasmania’s *Threatened Species Protection Act 1995* (Tas) and the *Environment Protection and Biodiversity Conservation Act 1999* (Cth). The species is also a priority threatened species under the Australian Government’s *Threatened Species Action Plan (2022-2032)*. The species is endemic to Tasmania and is only known to have occurred in two estuaries in the south-west: Macquarie Harbour and Bathurst Harbour (where the species is understood to occur in very small numbers, if at all).
29. A recent Australian Government conservation advice related to the Maugean skate clearly identifies fish farming in Macquarie harbour as causing the main impact on the threatened Maugean skate.¹⁰ It states the salmon and trout farming operations as a ‘very high risk’ threat that is ‘almost certain to impact the Maugean skate throughout the entire harbour’ with ‘catastrophic’ consequences. The conservation advice is based on numerous scientific studies that include evidence that the degraded environmental condition of Macquarie Harbour and the low dissolved oxygen which endangers the Maugean skate is primarily a result of the salmon and trout farming.¹¹

⁹ See https://search.ipaustralia.gov.au/trademarks/search/quick/result?q=responsibly+sourced#_2067983.

¹⁰ Australian Government, *Conservation Advice for Zearaja maugeana (Maugean skate)* (6 September 2023) <https://www.environment.gov.au/biodiversity/threatened/species/pubs/83504-conservation-advice-06092023.pdf>.

¹¹ IMAS, D Moreno and J Semmens, *Interim report - Macquarie Harbour Maugean skate population status and monitoring* (2023) https://imas.utas.edu.au/_data/assets/pdf_file/0007/1655611/Maugean-skate-2021-interim-report-FINAL.pdf; IMAS, D Moreno et al, *Vulnerability of the endangered Maugean skate population to degraded environmental conditions in Macquarie Harbour* (2020) https://www.imas.utas.edu.au/_data/assets/pdf_file/0007/1394224/2016-068-DLD.pdf; IMAS, J Ross and C MacLeod, *Environmental Research in Macquarie Harbour* (2017) https://www.imas.utas.edu.au/_data/assets/pdf_file/0019/940303/IMAS-Technical-Report-on-Macquarie-Harbour-Condition.pdf?_gl=1*1ttulix*_gcl_au*MTQzOTQ2Njc4Ny4xNjg3OTMzNzA5; IMAS, J Ross et al, *Assessment of the Macquarie Harbour Broadscale Environmental Monitoring Program (BEMP) data from 2011-2020* (2022)

30. The advice states that the primary threat to the species is degraded water quality, in particular substantially reduced levels of dissolved oxygen throughout Macquarie Harbour. There is a significant correlation between the reduction in dissolved oxygen levels and increases in salmon aquaculture due to the bacterial degradation of organic material introduced into the water column from fish-feed and fish-waste. Two significant mortality events were observed in 2019, coinciding with rapid changes in water quality (particularly dissolved oxygen) exacerbated by extreme weather events.
31. The advice says the highest priority action to protect the Maugean skate is to ‘eliminate or significantly reduce’ the impacts of fish farming on dissolved oxygen.¹² It says the fastest and simplest way to achieve this is to significantly reduce fish biomass. This is identified as an urgent priority to be actioned before the summer of 2023/2024.
32. In August 2023, our clients wrote to Aldi, Coles, Woolworths to draw to their attention to the scientific evidence reported by the Institute of Marine and Antarctic Studies (**IMAS**) that attributes the rapid decline of the Maugean Skate to the degraded environmental conditions in Macquarie Harbour and asserts that urgent action is required to save this endangered species. In that correspondence, our clients requested that the supermarkets stop procuring farmed salmon from Macquarie Harbour farms, remove the ‘Responsibly Sourced’ logo and claim from Macquarie Harbour products, and tell BAP and GGN to revoke their certifications from Macquarie Harbour farms. Copies of this correspondence is attached at Annexure C. These supermarkets have therefore already been made aware that there may be material omissions and/or no reasonable basis for their claims.
33. Salmon farms in the Macquarie Harbour which contribute to reduced levels of dissolved oxygen may be certified under the BAP or GGN schemes. These certifications have persisted despite significant attention drawn to the poor environmental effects of the Macquarie Harbour salmon industry,¹³ including in complaints made directly to the BAP and GGN certification schemes.¹⁴ By contrast, the RSPCA scheme refuses to endorse salmon farmed in Macquarie Harbour due to environmental conditions and welfare concerns.¹⁵ Aquaculture Stewardship Council (ASC) also

<https://epa.tas.gov.au/Documents/IMAS%20Assessment%20of%20Macquarie%20Harbour%20BEMP%20data%20from%202011%20to%202020%2C%20March%202022.pdf>.

¹² Australian Government, *Conservation Advice for Zearaja maugeana (Maugean skate)* (6 September 2023) <https://www.environment.gov.au/biodiversity/threatened/species/pubs/83504-conservation-advice-06092023.pdf>, page 29.

¹³ See, for example, Seafood Advisory Ltd, ‘Review of Eco-labelling Standards in Relation to Salmon Farming in Macquarie Harbour (commissioned by World Wide Fund for Nature)’ (Report, 1 September 2021) https://assets.wwf.org.au/image/upload/v1/website-media/resources/Review-of-Ecostandards-for-salmon-farming-in-MH_1Sept2021.

¹⁴ The Guardian, ‘Global calls to revoke ‘misleading’ sustainable farming certification for salmon in Tasmania’s Macquarie Harbour’ (26 July 2023) <https://www.theguardian.com/australia-news/2023/jul/25/global-calls-to-revoke-misleading-sustainable-farming-certification-for-salmon-in-tasmanias-macquarie-harbour>.

¹⁵ See, for example, RSPCA, ‘Huon Aquaculture’ <https://rspcaapproved.org.au/brand/huon-aquaculture/> (accessed 20 November 2023): ‘During a few weeks of the year, Huon Salmon could be sourced from farms located in Macquarie Harbour, Tasmania. The RSPCA’s Standard currently doesn’t permit farming in Macquarie Harbour and therefore these salmon products won’t be labelled as RSPCA Approved.’

no longer certifies salmon farmed in Macquarie Harbour following the significant attention directed towards its negative impacts.¹⁶ The Australian Marine Conservation Society's GoodFish initiative, which assesses the environmental impact of Australian fisheries and aquaculture operations, rates Atlantic salmon farmed by Petuna, Tassal and Huon 'say no', the lowest rating, citing several reasons including that salmon farms in Macquarie Harbour pose a serious extinction risk to the Maugean skate.¹⁷

34. On the face of salmon products bearing the Statements, it is not possible for a consumer to ascertain whether those products are sourced from Macquarie Harbour. Further, as noted above, for salmon, even with extensive research, it is impossible for a consumer to determine which certification scheme a particular product has been assessed against. Consumers are hindered from making a properly informed choice about where the salmon they are purchasing comes from and whether it includes salmon farmed in Macquarie Harbour. In a 'secret shopper' survey conducted by Eko, all 29 respondents responded 'no' to the question 'Is any salmon/trout labelled as coming from Macquarie Harbour?'
35. A reasonable consumer would likely understand that the Statements represent that the salmon were farmed in an environmentally and ecologically sustainable manner. Contrary to this impression, many of the salmon products in relation to which the Statements are made may be farmed from Macquarie Harbour, contributing to significant harm to the Maugean skate and surrounding environment.
36. In certain instances, the potentially misleading impression created by the Statements may be exacerbated by other comments made in conjunction with the Statements. For example, on Coles' website, the webpage for certain salmon products included at Annexure A also states:¹⁸

At Coles, we care about where our seafood comes from and are committed to working towards a sustainable future. That's why all Coles Brand seafood has been responsibly sourced since 2015. **We understand that well managed and responsible fishing and aquaculture is essential to maintaining healthy fish populations and habitats, helping to ensure the future sustainability of marine ecosystems. That's good for the oceans, aquaculture and our customers.** Raised responsibly in the cool waters of Tasmania our Atlantic salmon is carefully selected for its quality. It's part of our commitment to sustainability, quality and freshness.

(emphasis added)

37. Consumers rely on environmental and sustainability claims on their face to make purchasing decisions. A survey of Australian consumers undertaken by the Consumer Policy Research

¹⁶ See, for example, Aquaculture Stewardship Council, 'The Aquaculture Stewardship Council responds to recent WWF Australia report on Macquarie Harbour' (6 September 2021) <https://au.asc-aqua.org/news/the-aquaculture-stewardship-council-responds-to-recent-wwf-australia-report-on-macquarie-harbour/>.

¹⁷ Goodfish, 'Atlantic Salmon Petuna' <https://goodfish.org.au/species/atlantic-salmon-petuna/> (accessed 28 November 2023); GoodFish, 'Atlantic Salmon Tassal' <https://goodfish.org.au/species/atlantic-salmon-tassal/> (accessed 28 November 2023); Goodfish, 'Atlantic Salmon Huon' <https://goodfish.org.au/species/atlantic-salmon/> (accessed 29 November 2023).

¹⁸ See, for example, Coles 'Coles Tasmanian Salmon Portions Skin On' <https://www.coles.com.au/product/coles-tasmanian-salmon-portions-skin-on-460g-1546564> (accessed 28 November 2023).

Centre found that 45% of respondents always or often consider sustainability as part of their purchasing decision-making, and 69% were likely to trust a green claim that had a trustmark with it.¹⁹

38. In these circumstances, our clients consider that the Statements are misleading or deceptive or likely to mislead or deceive, and thereby contravene ss 18, 29 and 33 of the ACL. Our clients consider that there is a significant potential for harm given the proliferation of the Statements on various salmon products and other materials and by multiple producers and retailers. For this reason, our clients request that you investigate this issue.

39. If you have any queries, please do not hesitate to contact us by email at kirsty.ruddock@edo.org.au or asha.keaney@edo.org.au or by phone at (02) 7229 0031 or (02) 9054 9280.

Yours faithfully

Environmental Defenders Office



Kirsty Ruddock
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Safe Climate (Corporate and Commercial)



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Solicitor
Safe Climate (Corporate and Commercial)

Reference number s5964

¹⁹ Consumer Policy Research Centre, 'The consumer experience of green claims in Australia' (Report, December 2022) <https://cprc.org.au/green-claims/#:~:text=56%25%20of%20people%20said%20they,made%20by%20an%20international%20business.&text=69%25%20of%20people%20said%20they,had%20a%20trustmark%20with%20it> page 24.

Annexure A Statements on seafood packaging

We set out below illustrative examples of the Statements on salmon product packaging.

Woolworths

Image taken at Woolworths (Marrickville, NSW) on 21 September 2023



Image taken at Woolworths (New Norfolk, Tasmania) on 28 September 2023



Image taken from Woolworths website²⁰ on 4 October 2023



Image taken at Woolworths (Kingston, Tasmania) on 7 October 2023



²⁰ <https://www.woolworths.com.au/shop/productdetails/214923/woolworths-diced-tasmanian-salmon-skin-off>.

Image taken at Woolworths (New Town, Tasmania) on 18 November 2023



Coles

Image taken at Coles (Marrickville, NSW) on 21 September 2023



Image taken at Coles (Marrickville, NSW) on 21 September 2023



Image taken from Coles website²¹ on 4 October 2023



²¹ <https://www.coles.com.au/product/coles-tasmanian-salmon-portions-skin-on-460g-1546564>.

Aldi

Image taken at Aldi (Brunswick, Vic) on 11 September 2023



Image taken at Aldi (Brunswick, Vic) on 11 September 2023



Annexure B Statements in promotional materials and signage in supermarkets

We set out below illustrative examples of the Statements on promotional materials and signage in supermarkets.

Woolworths

Image taken at Woolworths (New Norfolk, Tasmania) on 28 September 2023



Image taken at Woolworths (Kingston, Tasmania) on 7 October 2023



Image taken at Woolworths (Kingston, Tasmania) on 9 October 2023



Coles

Image taken at Coles (Broadway, NSW) on 7 October 2023

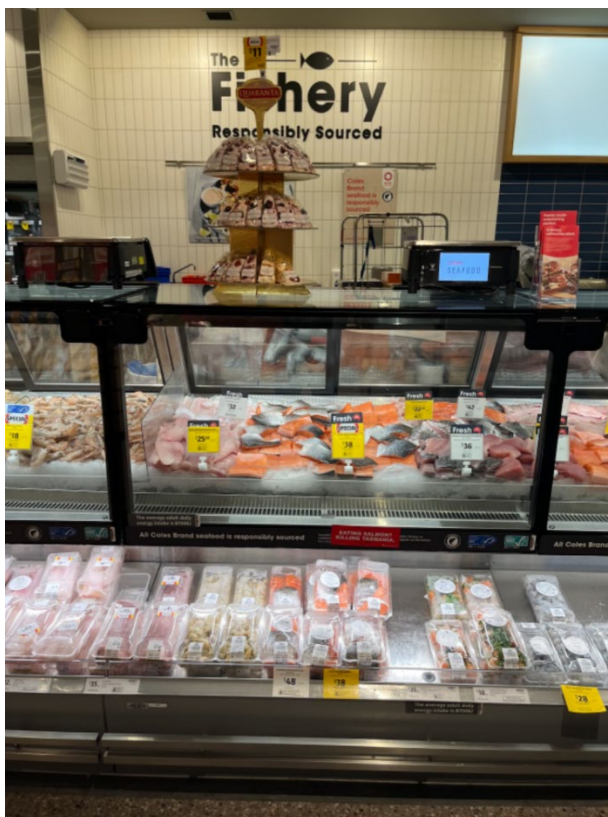


Image taken at Coles (New Town, Tasmania) on 18 November 2023



Annexure C

To: Brad Banducci, Chief Executive Officer and Managing Director, Woolworths Group
CC: Alex Holt, Chief Sustainability Officer
Alexandra Schepis, Sustainable Sourcing Speciality - Animal Welfare & Seafood
Anna Playfair-Hannay, Head of Environment

4th August 2023

Re: Woolworths Group Seafood Sourcing Policy compromised by Macquarie Harbour BAP and GLOBALG.A.P. certified salmon and trout

Dear Mr. Banducci,

Last week, 82 signatories from 17 countries sent open letters to the Best Aquaculture Practices (BAP) and GLOBALG.A.P. accreditations calling for the immediate revocation of certification from farmed salmon and ocean trout raised in Macquarie Harbour, Tasmania.¹

The demand is in response to recent scientific evidence² reported by the Institute of Marine and Antarctic Studies that asserts urgent action is required to save the endangered Maugean Skate from extinction, with skate population numbers having almost halved in less than seven years. The scientists attribute the Maugean skate's rapid decline to the degraded environmental conditions in Macquarie Harbour, in particular, dissolved oxygen levels, and the report explicitly named fish farms as a primary cause of low dissolved oxygen levels in the harbour.

The issue should be of serious concern to Woolworths, given that BAP and GLOBALG.A.P. are cited under Woolworths Group's Seafood Sourcing Policy³ for farmed seafood. All three salmon farming companies – Huon Aquaculture, Petuna and Tassal – operating in Macquarie Harbour are either BAP or GLOBALG.A.P certified.

Concerningly, farmed salmon and trout assessed against BAP or GLOBALG.A.P. carries the Woolworths' Responsibly Sourced logo.⁴ This means certified Macquarie Harbour salmon and trout are being sold to unsuspecting shoppers as "responsibly sourced" and 'sustainable'.

¹ The Guardian 26 July 2023. Global calls to revoke 'misleading' sustainable farming certification for salmon in Tasmania's Macquarie Harbour. Available at: <https://www.theguardian.com/australia-news/2023/jul/25/global-calls-to-revoke-misleading-sustainable-farming-certification-for-salmon-in-tasmanias-macquarie-harbour>

² Moreno and Semmens (2023) *Interim report - Macquarie Harbour Maugean skate population status and monitoring*. IMAS. Available at: https://imas.utas.edu.au/_data/assets/pdf_file/0007/1655611/Maugean-skate-2021-interim-report-FINAL.pdf

³ Seafood Sourcing Policy. Available at: https://www.woolworthsgroup.com.au/content/dam/wwg/sustainability/documents/Apr22Seafood%20Sourcing%20Policy%20Document_A4%20RGB.pdf

⁴ Ecologically responsible seafood. Available at: <https://www.woolworthsgroup.com.au/au/en/sustainability/Product/future-of-protein/ecologically-responsible-seafood.html>

From a consumer perspective, the Woolworths' Responsibly Sourced logo on Macquarie Harbour salmon and trout can be viewed as entirely misleading.

The Woolworths Group website states, "Woolworths Group supports seafood producers who are doing the right thing, by protecting our marine and freshwater ecosystems".⁵ BAP and GLOBALG.A.P. certified Macquarie Harbour farms are failing to protect the Macquarie Harbour's unique marine and freshwater estuary ecosystem. These farms are associated with waste inputs that have caused low dissolved oxygen, habitat degradation, and contributed to the decline in population of the endangered Maugean skate.

We emphasize that extinction, where avoidable, is not responsible, or by definition, sustainable.

The issue of greenwashing, the practice of making a misleading or unsubstantiated claim, has received significant attention in Australia and globally in recent times. In response to an internet sweep that found greenwashing to be prevalent in the Australian marketplace, last month the Australian Competition & Consumer Commission (ACCC) published draft guidance⁶ for businesses on environmental and sustainability claims. When using third-party certifications as evidence, the ACCC states:

"[T]here are some cases where third-party certifications will not adequately substantiate your claims or where the schemes themselves lack integrity... When using a third-party certification to back up your claims, you should ensure that: your product or service does what you claim it does, even where you have complied with the third-party certification".⁷

We contend that the BAP and GLOBALG.A.P. certifications do not adequately substantiate Woolworths' claims of "responsibly sourced" on Macquarie Harbour salmon and ocean trout. I.e., the product fails to do what Woolworths claims it does.

The continued procurement of Macquarie Harbour salmon and ocean trout – exacerbated by the use of the unsubstantiated "responsibly sourced" logo and claim – places the credibility of the Woolworths brand at risk.

Traceability mechanisms enable Woolworths to avoid misleading shoppers with unsubstantiated claims; and to avoid a product that is contributing to the extinction of the Maugean skate. The chain-of-custody processes deployed by BAP and GLOBALG.A.P. allows Woolworths to refuse products within the supply chain that trace back to Macquarie Harbour fish farms.

⁵ Ibid

⁶ ACCC publishes draft guidance to improve businesses' environmental claims. Available at: <https://www.accc.gov.au/media-release/accc-publishes-draft-guidance-to-improve-businesses-environmental-claims>

⁷ Page 17. ACCC July 2023. Environmental and sustainability claims. Draft guidance for business. Available at: https://www.accc.gov.au/system/files/Environmental%20and%20sustainability%20claims%20-%20draft%20guidance%20for%20business_web.pdf

Consequently, we call on Woolworths to take the following immediate actions:

- 1. Stop procuring farmed salmon and ocean trout from Macquarie Harbour farms.**
- 2. Remove the Woolworths “Responsibly Sourced” logo and claim from Macquarie Harbour products currently in stores.**
- 3. Tell BAP and GLOBALG.A.P. to revoke their certifications from Macquarie Harbour fish farms.**

Please find attached copies of the open letters to BAP and GLOBALG.A.P., as well as the corresponding press release: *More than 80 groups worldwide demand farmed salmon accreditations stop greenwashing the extinction of the Maugean skate.*

We look forward to hearing how Woolworths will be upholding their commitment to sustainable seafood by taking the necessary and prompt actions required to help prevent the endangered Maugean skate from becoming extinct.

We kindly request a meeting to discuss these serious concerns further.

Sincerely,

Kelly Roebuck
SeaChoice representative
Living Oceans



Nick Haines
Senior Campaigns Manager
Ekō



Jessica Coughlan
Campaigner
Neighbours of Fish Farming



Alistair Allan
Antarctic and Marine Campaigner
Bob Brown Foundation



Dear Kelly Roebuck, Jessica Coughlan, Nick Haines, Alistair Allan

Thank you for taking the time to write to our CEO, Mr Brad Banducci, on Friday 4 August 2023 in relation to Macquarie Harbour and our seafood sourcing policy. As Commercial Director - Meat, Poultry and Seafood, he has asked me to respond on his behalf.

Sustainability and responsible sourcing are integral to our business and we take these issues seriously in our seafood category. We have strict sourcing policies in place with our suppliers, which help drive responsible farming practices, consistent with the expectations of our customers. Additionally, we have a team dedicated to overseeing suppliers' compliance with our seafood responsible sourcing commitments.

Maugean skate

We note the concerns you and others have raised regarding the Maugean skate population in Macquarie Harbour. In light of this, we strongly support the Tasmanian and Commonwealth Governments' move to establish the National Recovery Team for the Maugean skate. We understand the National Recovery Team met in July and agreed to develop a strategy to address population decline. As per the communique and Tasmanian EPA the factors impacting the skate population are vast, and it's therefore appropriate for government and industry to work together on recovery plans while further scientific research is undertaken. We will closely monitor the progress of this issue and the work of the National Recovery Team.

Responsible sourcing

We have stringent protocols to verify any on-pack claims. This includes ensuring all products meet our Seafood Sourcing Policy, reviewing our suppliers' third-party certification and their fishing and farming methods. Our Seafood Sourcing Policy requires all Woolworths branded seafood to be third-party certified or independently verified as ecologically responsible. In addition to our Policy, all our suppliers must also meet all relevant legislative and regulatory requirements. Accordingly, we are comfortable with our claims on the product at this time. Of course, we will continue to monitor developments in Macquarie Harbour as part of our regular due diligence on our Seafood Sourcing Policy.

Tasmanian salmon sourcing

Salmon remains an important and popular source of protein for many Australian families. We will continue offering Tasmanian salmon to our customers as part of our range. At the same time, we will continue to engage with industry, government and community to enhance the sustainability of the sector. Our submissions to the Tasmanian Government on the New Salmon Plan show we have publicly supported enhanced regulatory oversight of salmon farming through a newly independent EPA and the development of science-based aquaculture standards to better manage biodiversity, environmental and animal welfare impacts. We have also advocated for improved transparency on salmon farming operations through the Salmon Portal.

We appreciate this is a complex issue and we will continue to work with our suppliers, industry and government to understand more about the situation as it evolves. We encourage all the stakeholders to collaborate in resolving the situation.

Yours sincerely,

Tim Dudding

Commercial Director - Meat, Poultry and Seafood
Woolworths Group

To: Anna MacGarth, Group Managing Director, ALDI Australia
Marietta Schorn, Managing Director of Central Purchasing, ALDI Australia
CC: Daniel Baker, Sustainability Director
Daniel Tuffield, National Buying Director
Chloe Leong, Corporate Responsibility- Responsible Sourcing

4th August 2023

Re: ALDI Australia's Corporate Responsibility: Fish and Seafood Buying Policy compromised by Macquarie Harbour BAP and GLOBALG.A.P. certified salmon and trout

Dear Ms. MacGarth and Ms. Schorn,

Last week, 82 signatories from 17 countries sent open letters to the Best Aquaculture Practices (BAP) and GLOBALG.A.P. accreditations calling for the immediate revocation of certification from farmed salmon and ocean trout raised in Macquarie Harbour, Tasmania.¹

The demand is in response to recent scientific evidence² reported by the Institute of Marine and Antarctic Studies that asserts urgent action is required to save the endangered Maugean Skate from extinction, with skate population numbers having almost halved in less than seven years. The scientists attribute the Maugean skate's rapid decline to the degraded environmental conditions in Macquarie Harbour, in particular, dissolved oxygen levels, and the report explicitly named fish farms as a primary cause of low dissolved oxygen levels in the harbour.

The issue should be of serious concern to ALDI, given that BAP and GLOBALG.A.P. are cited under ALDI Australia's Corporate Responsibility Fish and Seafood Buying Policy³ for farmed seafood. All three salmon farming companies – Huon Aquaculture, Petuna and Tassal – operating in Macquarie Harbour are either BAP or GLOBALG.A.P certified.

Concerningly, farmed salmon and trout assessed against BAP or GLOBALG.A.P. carries the ALDI's Responsibly Sourced logo.⁴ This means certified Macquarie Harbour salmon and trout are being sold to unsuspecting shoppers as "responsibly sourced" and 'sustainable'.

¹ The Guardian 26 July 2023. Global calls to revoke 'misleading' sustainable farming certification for salmon in Tasmania's Macquarie Harbour. Available at: <https://www.theguardian.com/australia-news/2023/jul/25/global-calls-to-revoke-misleading-sustainable-farming-certification-for-salmon-in-tasmanias-macquarie-harbour>

² Moreno and Semmens (2023) *Interim report - Macquarie Harbour Maugean skate population status and monitoring*. IMAS. Available at: https://imas.utas.edu.au/_data/assets/pdf_file/0007/1655611/Maugean-skate-2021-interim-report-FINAL.pdf

³ ALDI Australia Corporate Responsibility Fish and Seafood Buying Policy. Available at: https://corporate.aldi.com.au/fileadmin/fm-dam/pdf/Suppliers/2019/Documents/Fish_and_Seafood_Policy_01.11.2019.pdf

⁴ Responsibly Sourced Fish and Seafood. Available at: <https://www.aldi.com.au/en/sustainability/good-planet/sustainable-fish-and-seafood/>

From a consumer perspective, the ALDI's Responsibly Sourced logo on Macquarie Harbour salmon and trout can be viewed as entirely misleading.

The ALDI Australia website states, "100% of our fish and seafood range is responsibly or sustainably sourced. ALDI requires all private label fish to be independently verified as ecologically responsible".⁵ BAP and GLOBALG.A.P. certified Macquarie Harbour farms are not sustainably sourced or ecologically responsible. These farms are associated with waste inputs that have caused low dissolved oxygen, habitat degradation, and contributed to the decline in population of the endangered Maugean skate.

We emphasize that extinction, where avoidable, is not responsible, or by definition, sustainable.

The issue of greenwashing, the practice of making a misleading or unsubstantiated claim, has received significant attention in Australia and globally in recent times. In response to an internet sweep that found greenwashing to be prevalent in the Australian marketplace, last month the Australian Competition & Consumer Commission (ACCC) published draft guidance⁶ for businesses on environmental and sustainability claims. When using third-party certifications as evidence, the ACCC states:

"[T]here are some cases where third-party certifications will not adequately substantiate your claims or where the schemes themselves lack integrity... When using a third-party certification to back up your claims, you should ensure that: your product or service does what you claim it does, even where you have complied with the third-party certification".⁷

We contend that the BAP and GLOBALG.A.P. certifications do not adequately substantiate ALDI's claims of "responsibly sourced" on Macquarie Harbour salmon and ocean trout. I.e., the product fails to do what ALDI claims it does.

The continued procurement of Macquarie Harbour salmon and ocean trout – exacerbated by the use of the unsubstantiated "responsibly sourced" logo and claim – places the credibility of the ALDI brand at risk.

Traceability mechanisms enable ALDI to avoid misleading shoppers with unsubstantiated claims; and to avoid a product that is contributing to the extinction of the Maugean skate. The chain-of-custody processes deployed by BAP and GLOBALG.A.P. allows ALDI to refuse products within the supply chain that trace back to Macquarie Harbour fish farms.

⁵ Responsible Farming. Sustainable Fish & Seafood. Available at: <https://www.aldi.com.au/en/sustainability/good-planet/responsible-farming/>

⁶ ACCC publishes draft guidance to improve businesses' environmental claims. Available at: <https://www.accc.gov.au/media-release/accc-publishes-draft-guidance-to-improve-businesses-environmental-claims>

⁷ Page 17. ACCC July 2023. Environmental and sustainability claims. Draft guidance for business. Available at: https://www.accc.gov.au/system/files/Environmental%20and%20sustainability%20claims%20-%20draft%20guidance%20for%20business_web.pdf

Consequently, we call on ALDI to take the following immediate actions:

- 1. Stop procuring farmed salmon and ocean trout from Macquarie Harbour farms.**
- 2. Remove the ALDI “Responsible Sourced” logo and claim from Macquarie Harbour products currently in stores.**
- 3. Tell BAP and GLOBALG.A.P. to revoke their certifications from Macquarie Harbour fish farms.**

Please find attached copies of the open letters to BAP and GLOBALG.A.P., as well as the corresponding press release: *More than 80 groups worldwide demand farmed salmon accreditations stop greenwashing the extinction of the Maugean skate.*

We look forward to hearing how ALDI will be upholding their commitment to sustainable seafood by taking the necessary and prompt actions required to help prevent the endangered Maugean skate from becoming extinct.

We kindly request a meeting to discuss these serious concerns further.

Sincerely,

Kelly Roebuck
SeaChoice representative
Living Oceans



Nick Haines
Senior Campaigns Manager
Ekō



Jessica Coughlan
Campaigner
Neighbours of Fish Farming



Alistair Allan
Antarctic and Marine Campaigner
Bob Brown Foundation





ALDI Stores

(A Limited Partnership)
ABN 90 196 565 019

1 Sargents Road, Minchinbury, NSW 2770, AUSTRALIA

National

Locked Bag 56
St Marys Delivery Centre
NSW 2760

21 August 2023

Telephone: (02) 9675 9000
Facsimile: (02) 9675 9399

Kelly Roebuck
SeaChoice Representative from Living Oceans
1057 Barrenjoey Rd
Palm Beach NSW 2108

Re: ALDI Australia's Fish and Seafood Sourcing Policy - Macquarie Harbour

Dear Kelly,

Thank you for your email and letter dated 4 August 2023.

Responsible sourcing of fish and seafood is an important component of being a responsible business and we are committed to the highest sourcing standards across our supply chain.

ALDI works closely with internationally recognised and Global Sustainable Seafood Initiative (GSSI) benchmarked certification schemes such as the Global Seafood Alliance (GSA)'s Best Aquaculture Practices (BAP) and GLOBAL G.A.P. The goal of these programs is to preserve oceans for future generations and drive forward more sustainable seafood practices. These certification schemes provide retailers with a robust science-based assurance system through which we can implement our responsible sourcing policies.

Finfish farming is one of the most heavily regulated and monitored industries; assessments include stocking density limits, biomass limits and environmental monitoring requirements. The producers that ALDI works with take their environmental and sustainability responsibilities seriously and are fully compliant with the relevant regulations and certifications related to Macquarie Harbour. We are also encouraged to see that the aquaculture sector has actively engaged in Maugean Skate research and is working with multiple stakeholders such as IMAS, UTAS, the CSIRO and the EPA to further protect the species.

ALDI's approach to responsible sourcing is based on continuous improvement and we collaborate with trusted independent third-party organisations and NGOs to review and assess our requirements. Chain of Custody certification programs, such as BAP and GLOBAL G.A.P., are widely recognised as a tool to ensure the responsible sourcing of seafood. Where improvements to those certification programs are identified, we strongly encourage stakeholders to utilise the public consultation process for Chain of Custody standard updates to provide that feedback to certification bodies.

Kind regards,
ALDI Stores

A handwritten signature in black ink, appearing to be 'Daniel Baker', written over a thin horizontal line.

Daniel Baker
Director - National Sustainability

To: Leah Weckert, Chief Executive Officer and Managing Director, Coles Group
CC: Matt Swindells, Chief Operations and Sustainability Officer
Brooke Donnelly, General Manager, Sustainability
Sean O'Malley, Product Stewardship Manager
William Wall, Lead Sustainable Sourcing Manager - Seafood
Caitlyn Richards, Responsible Sourcing Manager

4th August 2023

Re: Coles' Responsibly Sourced Seafood Program compromised by Macquarie Harbour BAP and GLOBALG.A.P. certified salmon and trout

Dear Ms. Weckert,

Last week, 82 signatories from 17 countries sent open letters to the Best Aquaculture Practices (BAP) and GLOBALG.A.P. accreditations calling for the immediate revocation of certification from farmed salmon and ocean trout raised in Macquarie Harbour, Tasmania.¹

The demand is in response to recent scientific evidence² reported by the Institute of Marine and Antarctic Studies that asserts urgent action is required to save the endangered Maugean Skate from extinction, with skate population numbers having almost halved in less than seven years. The scientists attribute the Maugean skate's rapid decline to the degraded environmental conditions in Macquarie Harbour, in particular, dissolved oxygen levels, and the report explicitly named fish farms as a primary cause of low dissolved oxygen levels in the harbour.

This issue should be of serious concern to Coles Group, given that BAP and GLOBALG.A.P. are cited under Coles' Responsibly Sourced Seafood Program for farmed seafood.³ All three salmon farming companies – Huon Aquaculture, Petuna and Tassal – operating in Macquarie Harbour are either BAP or GLOBALG.A.P certified.

Concerningly, farmed salmon and trout assessed against BAP or GLOBALG.A.P. carries the Coles' Responsibly Sourced Seafood (RSS) logo.⁴ This means certified Macquarie Harbour salmon and trout are being sold to unsuspecting shoppers as “responsibly sourced” and ‘sustainable’.

¹ The Guardian 26 July 2023. Global calls to revoke 'misleading' sustainable farming certification for salmon in Tasmania's Macquarie Harbour. Available at: <https://www.theguardian.com/australia-news/2023/jul/25/global-calls-to-revoke-misleading-sustainable-farming-certification-for-salmon-in-tasmanias-macquarie-harbour>

² Moreno and Semmens (2023) *Interim report - Macquarie Harbour Maugean skate population status and monitoring*. IMAS. Available at: https://imas.utas.edu.au/_data/assets/pdf_file/0007/1655611/Maugean-skate-2021-interim-report-FINAL.pdf

³ Responsibly sourced product and ingredients. Responsibly sourced seafood. Available at: <https://www.colesgroup.com.au/sustainability/?page=responsible-sourcing>

⁴ Ibid

From a consumer perspective, the Coles' Responsibly Sourced Seafood logo on Macquarie Harbour salmon and trout can be viewed as entirely misleading.

The Coles consumer facing website states, “to protect the oceans, all Coles Brand wild caught and farmed seafood is responsibly sourced”.⁵ BAP and GLOBALG.A.P. certified Macquarie Harbour farms are failing “to protect the oceans”. These farms are associated with waste inputs that have caused low dissolved oxygen, habitat degradation, and contributed to the decline in population of the endangered Maugean skate.

We emphasize that extinction, where avoidable, is not responsible, or by definition, sustainable.

The issue of greenwashing, the practice of making a misleading or unsubstantiated claim, has received significant attention in Australia and globally in recent times. In response to an internet sweep that found greenwashing to be prevalent in the Australian marketplace, last month the Australian Competition & Consumer Commission (ACCC) published draft guidance⁶ for businesses on environmental and sustainability claims. When using third-party certifications as evidence, the ACCC states:

*“[T]here are some cases where third-party certifications will not adequately substantiate your claims or where the schemes themselves lack integrity... When using a third-party certification to back up your claims, you should ensure that: your product or service does what you claim it does, even where you have complied with the third-party certification”.*⁷

We contend that the BAP and GLOBALG.A.P. certifications do not adequately substantiate Coles' claims of “responsibly sourced” on Macquarie Harbour salmon and ocean trout. I.e., the product fails to do what Coles claims it does.

The continued procurement of Macquarie Harbour salmon and ocean trout – exacerbated by the use of the unsubstantiated “responsibly sourced” logo and claim – places the credibility of the Coles brand at risk.

Traceability mechanisms enable Coles to avoid misleading shoppers with unsubstantiated claims; and to avoid a product that is contributing to the extinction of the Maugean skate. The chain-of-custody processes deployed by BAP and GLOBALG.A.P. allows Coles to refuse products within the supply chain that trace back to Macquarie Harbour fish farms.

⁵ Coles Seafood. Available at: <https://www.coles.com.au/about/our-partners/farming/seafood>

⁶ ACCC publishes draft guidance to improve businesses' environmental claims. Available at: <https://www.accc.gov.au/media-release/accc-publishes-draft-guidance-to-improve-businesses-environmental-claims>

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- 3. Tell BAP and GLOBALG.A.P. to revoke their certifications from Macquarie Harbour fish farms.**

Please find attached copies of the open letters to BAP and GLOBALG.A.P., as well as the corresponding press release: *More than 80 groups worldwide demand farmed salmon accreditations stop greenwashing the extinction of the Maugean skate.*

We look forward to hearing how Coles will be upholding their commitment to sustainable seafood by taking the necessary and prompt actions required to help prevent the endangered Maugean skate from becoming extinct.

We kindly request a meeting to discuss these serious concerns further.

Sincerely,

Kelly Roebuck
SeaChoice representative
Living Oceans



Nick Haines
Senior Campaigns Manager
Ekō



Jessica Coughlan
Campaigner
Neighbours of Fish Farming



Alistair Allan
Antarctic and Marine Campaigner
Bob Brown Foundation



29/08/23

Kelly Roebuck
Sea Choice
kroebuck@livingoceans.org

Dear Kelly, Jessica, Nick and Alistair,

RE: Coles' Responsibly Sourced Seafood Program

Thank you for your letter dated 4 August 2023 to Leah Weckert, whom I reply on behalf.

We are aware of concerns regarding the population status of the Maugean Skate in Macquarie Harbour and are seeking to gather further information.

We are currently engaging suppliers, third-party certification standards holders, and other relevant stakeholder groups to better understand the status of skate populations, the impact of salmon farming in Macquarie Harbour and the overall effectiveness of third-party certification in the region. While we regularly engage throughout the year with these groups, more recently we have specifically raised the issues of population decline and impacts on the skate.

We appreciate that reducing the environmental impacts in Tasmania's marine environments is key to the long-term sustainability of the Tasmanian salmon farming industry. For this reason, over the past year we have:

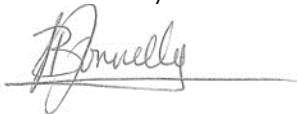
- participated in the Tasmanian Government's 'Tasmanian Salmon Industry Plan 2023' development, reviewing the Government's 'discussion paper' and providing input on topics such as transparency/disclosure, ecosystem regeneration, responsible feed ingredients, animal welfare and water quality.
- engaged with international consultancy Stonehaven to provide data-led insights that are being used to inform our approach when engaging with the Tasmanian salmon industry and local communities.
- established an internal cross-functional working group to work with our suppliers to further develop our approach to key issues including animal welfare, feed ingredients and impacts on the marine environment.

We recognise there are potential environmental impacts associated with seafood production. We continue to review the Coles Responsibly Sourced Seafood Program to assist in mitigating these impacts. Where issues arise, we take informed action to reach the best outcome for our stakeholders and in accordance with our sustainability ambitions.

Representatives from our Sustainability team would welcome the opportunity to meet with you to discuss your concerns, please reach out if this is something that would be of interest.

Thank you for taking the time to contact us.

Yours sincerely



Brook Donnelly
General Manager Sustainability