

# **Proposed Marlborough Environment Plan (MEP)**

## **Hearing Notes**

10 October 2018

Block 9 – Topic 13

Chapter 15

## **Resource Quality - Water**

Presentation from

**Kenepuru and Central Sounds Residents' Association**

## Presentation to MEP Hearing Panel re Topic 13

### Introduction

1. On behalf of the Kenepuru and Central Sounds Residents' Association (**KCSRA**). I would like to thank the hearing panel for the opportunity to talk to our subsequent Further Submission on the MEP as it concerns the above Topic (Marine Farm Association (**MFA**) submission point 426.182 - see also AQNZ submission point 401.174).
2. My name is Andrew Caddie and I am the President of KCSRA. The Association was incorporated in 1991 and currently has over 280 members (mainly household) who predominately reside full or part time in the Kenepuru Sound and Central Pelorus. Our objectives include among other things to coordinate dealings with central and local government. We are an active organisation dealing with a wide range of matters of concern and/or interest to members. For a fuller grasp of our activities go our website [www.kcsra.org.nz](http://www.kcsra.org.nz).
3. Suffice to say that insofar as our limited resources permit - and bear in mind we are a voluntary organisation with no staff - we have committed to engaging in the MEP process since it first began in 2014 with the release of various MDC discussion papers. In 2016 we reviewed aspects of the notified MEP and made extensive written submissions on these aspect. The association then made further submissions on other submitters efforts and have attended and made a number of presentations to this hearing panel on various topics since November 2017.
4. In terms of my professional background I hold 2 tertiary qualifications - a Bachelor of Forestry Science and a LLB, both from Canterbury University. I was a forester for a number of years with the then NZ Forest Service. Following a period of OE I obtained my LLB and practised law as a commercial solicitor for a number of years at various large National legal firms.
5. Today's session of hearings covers Topic 13 of Block 9 – Resource Quality - **Water**. Our focus is opposing the audacious bid by representatives of the Aquaculture Industry (MFA and the AQNZ) to obtain, under the guise of improving water quality for their commercial endeavors, a zone of influence extending 1000 Metres landward from every marine farm. A massive land grab.

### The Nub of it

6. The industry proposes what it describes as a 1000 metre protection zone around each and every marine farm in the Sounds. That is 1000 metres seaward and land ward. For the purposes of Chapter 15 of Volume 1 of the MEP they say this method will, and is necessary to, protect marine farms and in particular shellfish farms from the risk of human sewage contamination.
7. The section 42A reporters have quite rightly rejected the notion of such a administrative zone (see paragraph 191 of the first section 42A report and paragraph 304 of the second section 42 A report for this topic). The Association supports that rejection.
8. Further the Association submits that no evidence has been lead by the MFA that creating such a new overlay will achieve the result sought.
9. Rather the Association submits that the notified MEP already appropriately, and in a manner that will be far more effective than the zone proposed by the MFA, deals with the issue. I refer of course to the method of implementation set out in chapter 16 Volume 1 (Waste) of the MEP as Method of Implementation 16.M.20. I note the general narrative in that chapter 16 of the MEP is also useful background reading.
10. This (16.M.20) requires the MDC to set up a warrant of fitness scheme for all sewage collection and treatment systems (including old fashioned septic tanks) and go around and check these systems against the standards on a regular periodic basis. We submit lines on a map as proposed by the MFA

will not address the problem. Rather setting of standards and regular inspection against the standard(s) is the way to go.

11. That does beg the question of just what might be the administrative motives behind this proposal. But first we would like to look at some of the detail the MFA has advanced.

### **The MFA Evidence**

12. The Aquaculture industry representatives have advanced the concept of a landward zone of influence under various MEP topics and chapters. However as far as we can ascertain the only expert evidence put forward by the MFA is that of Mr Campbell back in March 2018. Certainly for this topic Mr Campbell's evidence this is the only expert evidence referred to in the MFA legal submissions. For the purposes of this presentation I **wish to stress** I am focusing on the landward aspects of this proposed zone of influence and **not** commenting on discharges from marine vessels.
13. In his written evidence Mr Campbell details the industries water monitoring program and what happens if certain quantitative thresholds in that program are triggered. There is a prohibition on harvesting shell fish farms in the affected area. Based on Mr Campbell's evidence toxic marine algae and biotoxins seem the real high risk possibility with tests carried out weekly (para 24). From a land based focus the culprit is the runoff – or more accurately what is in the run off. Mr Campbell notes a **wide range of land** based activities that might generate run off of concern to the industry, particularly following rainfall. Microbiological contamination, which I assume, covers contamination from human sewage; seems in reality less of a risk with tests carried out every 2 months.
14. Be that as it may, Mr Campbell at Appendix A sets out closure days in two monitoring areas (one being the Kenepuru) over the last 10 years. Mr Campbell does not attempt to explain or enlighten us on these figures or trends therein but for the Kenepuru they seem fairly consistent at around 120 closure days per annum.
15. On the face of it this seems to suggest there is a real problem for the industry from, other things, microbiological contamination. Unfortunately Mr Campbell **does not** breakdown for us what was the reason from behind these closures by class. Thus for instant it is public knowledge that this year there have been extensive harvesting closures of some months in the Sounds due to the presence of toxic (to humans) algae. Nothing to do with the presence of domestic dwellings and/or people in the Sounds. Again once rainfall reaches a certain level there seems to be an automatic closure. It rains a lot in the Sounds.
16. We submit that Mr Campbell's evidence is an interesting read but as already noted above suffers from being overly general in nature and leaves the reader to attempt to identify and connect the dots without his express expert assistance.
17. Thus for example he does not suggest that all waste treatment units in the Sounds are inherently defective. Rather he says that there is a high risk of contamination of the CMA from poorly performing sewage units. He is particularly concerned about unmonitored septic tank systems. In todays world these are treatment units installed without the need for "modern" resource consent. He does not detail how creating zone 1000 inland from a marine farm will fix that. **Of course he cannot.** We submit that only a system of setting standards and regular inspection will do that. Indeed Mr Campbell concludes that in an ideal world all sources of discharge would be monitored but suggests there is no appetite for that (para 37 of his evidence).
18. With all due respect and, bearing in mind the focus of on land based sewage systems, that is quite simply **not correct**. As noted at Chapter 16 Volume 1 of the MEP the MDC has put up just such a system of regulation and monitoring specifically targeted at such treatment units in the Sounds. Mr Campbell seems to have been **unaware** of these provisions and thus in his written evidence does not opine on the same. Accordingly we submit his evidence is of very limited value in terms of justifying the imposition of a 1000m zone of administrative influence landward of a marine farm.

## Legal submissions

19. The MFA legal submissions concentrate on “underperforming” or “poorly performing” septic tanks. They advance certain MDC reports that look at areas in the Sounds with high concentrations of dwellings such as Ngakuta bay.
20. The legal submission quite rightly raises concern over adverse effects might have on the use and enjoyment of the sounds by the public in these areas. The submission concedes that proactive work by Council in consultation with local communities has resulted in the likes of Moetapu Bay (para 15(c)) having something of a turn around.
21. The submission further concedes that there are **no marine farms** any where near the areas the subject of these reports. However the author then uses these reports to switch to areas of concern to the Industry – the Kenepuru Sound for example - and with out further ado argues that industry concerns trump public concerns with areas such as Ngakutu Bay. Council needs to do something about their concerns as the highest priority. Neither Mr Campbell or the legal counsel have advanced evidence from their extensive monitoring that something other than toxic algae or high rainfall events is the actual issue in the Kenepuru.
22. Legal Counsel appears to concede that monitoring is the way to go. Legal council does not however offer any substantive comment on Chapter 16 of the MEP nor does he, we submit, demonstrate exactly how the creation of an administrative zone of influence will result in **ensuring** water quality.
23. We submit that the case for granting the Aquaculture industry a potential domineering role in all land based activities that may be of concern to them up to a 1000 m landward of a marine farm has not been made out.
24. Industry has focused on poorly performing treatment units. We submit that the requirements of NZCPS Policy 8 in the context of avoiding poorly performing treatment units are more likely to be achieved by the sort of standard setting followed by a regular monitoring regime like that which the Council has advanced in Chapter 16 of the notified MEP.

Andrew Caddie  
President  
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