

# Kenepuru & Central Sounds



Kenepuru & Central Sounds Residents Association Inc.

Manager, Resource Consents  
Marlborough District Council  
PO Box 443  
Blenheim 7240  
**Email: [mdc@marlborough.govt.nz](mailto:mdc@marlborough.govt.nz)**

*Andrew Caddie*  
*President KCSRA*  
*C/- PO Box 5054*  
*Springlands*  
*Blenheim 7241*  
*email: [president@kcsra.org.nz](mailto:president@kcsra.org.nz)*  
*WWW: [kcsra.org.nz](http://kcsra.org.nz)*

3 July 2019

Dear Sir/ Madam

## **Kenepuru and Central Sounds Residents' Association - Resource Consent Application U190357 - New Zealand King Salmon Co. Limited – Variations sought to Waitata Farm consent conditions.**

I write in my capacity as President of the Association.

### **Introduction**

1. The Association was incorporated in 1991 and currently has over 250 mainly household members whose residents live full time or part time in the Kenepuru or Central Pelorus Sounds. The Association's objects include, among other things, to coordinate dealings with central and local government on matters of interest to members.
2. The Association is active on a wide variety of issues. These range from: attempting to maintain the security and reliability of the rather stressed local roading network; advocating with Council for the installation and/or maintenance of essential public services; lobbying central government in support of retaining the local school bus service and advocating (with some success) on conservation and environment matters concerning adverse impacts on our much valued and iconic marine space of the Sounds. For more detail see our web site ([kcsra.org.nz](http://kcsra.org.nz)).
3. Since 2012, New Zealand King Salmon and its various subsidiaries (NZKS) have sought to acquire space in the Sounds for some 15 new fish farms. Once up to speed the Association (and many other community groups) quickly realised the significant adverse impacts of these proposals on the public space making up the iconic Sounds marine environment. These significant adverse impacts in our view vastly outweighed the benefits potentially accruing to King Salmon shareholders and the less than minor contribution accruing to the national economy. The Association with its meagre resources did what it could to oppose these proposals.

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#### **Kenepuru & Central Sounds Residents Association Inc.**

President	Andrew Caddie
Vice President	Tom Wright
Secretary	
Treasurer	Stefan Schulz

<a href="mailto:president@kcsra.org.nz">president@kcsra.org.nz</a>
<a href="mailto:vicepresident@kcsra.org.nz">vicepresident@kcsra.org.nz</a>
<a href="mailto:secretary@kcsra.org.nz">secretary@kcsra.org.nz</a>
<a href="mailto:treasurer@kcsra.org.nz">treasurer@kcsra.org.nz</a>

## The Application

4. The application seeks to extend the number of pens by another four – from eight to twelve - and the associated area from 1.5 has to 2.25 has. With the additional pens comes a plethora of associated moorings and up to 100 additional buoys. This requires the existing consent to be varied pursuant to section 127 of the RMA. We note that in its application the applicant states that the application is a non-complying one and for the purposes of this submission we assume the applicant is right. To be clear the Association reserves its position at the hearing on this aspect. On the basis that the application is for a non complying activity the requirements of Section 104D must be satisfied.

5. The application is unclear and vague as to the relationship between the location of the four extra pens and the application for the increased area. This needs to be clarified by the applicant prior to the hearing.

## Background

6. In terms of the 2012 Board Of Inquiry (**BOI**) process NZKS garnered three new supposedly carefully selected high flow cool temperature sites to massively expand its farming operations. The various terms and conditions of these consents - of which the farm the subject of this application (Waitata) is one - were carefully crafted via the public BOI process. The BOI effectively acknowledged that there were a number of real uncertainties surrounding the adverse impacts of the likes of the Waitata farm operation and that these would be managed using: staged development, a tiered monitoring system and ongoing adaptive management as ultimately reflected by the raft of conditions.

7. At the 2012 Board of Inquiry (BOI) hearings the Association realised that even the NZKS evidence demonstrated that these proposals have a fundamental problem. Water temperatures in the middle and outer Pelorous areas of the Sounds are too warm for too long<sup>1</sup>. NZKS at the BOI in its own evidence<sup>2</sup> confirmed that sea water temperatures are one of the top three critical physical factors for salmon farming success. We were surprised to then see from the NZKS evidence that the Pelorus often suffered water temperatures at or above the critical limit for the summer months. Unfortunately this admission and its likely consequences for adverse animal health and associated disease risk passed the BOI panel by. We attach at Schedule One a graph of sea temperatures in the relevant area from 2013 to 2019<sup>3</sup> - the red horizontal line is the critical 17degree mark.

8. Elevated sea temperatures for ongoing periods stress the farmed fish. They cannot take evasive action. Stressed fish are susceptible to disease. In 2017 the Ministry for Primary Industries (MPI) released an Intelligence report into the NZKS 2015 mortality spike, which confirmed that two

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<sup>1</sup> To review the KCSRA technical papers on this subject go to [www.kcsra.org.nz](http://www.kcsra.org.nz), click on “Public Documents” and then tap on the folder “Salmon Farm Mortality”

<sup>2</sup> The excerpt below is from NZKS’s Mark Gillard’s Site Selection and Consultation Document.as presented to the BOI

*“Key matters for consideration in selecting possible salmon farm sites*

*20. Based on my experience, there are two overarching critical matters to consider in determining whether it is feasible to farm salmon productively:*

*a. The first critical matters are the key appraisals of the physical characteristic required for salmon to successfully grow (rather than perform poorly or possibly die). These are primarily:*

*i. Water temperature - salmon prefer cooler waters and usually grow best in water temperatures between approximately 12 to 17 °C;*

<sup>3</sup> Data supplied by Marlborough District Council

hitherto unknown pathogens (to New Zealand) had been isolated in the mortalities<sup>1</sup>. Accordingly it should come as no real surprise that the purpose of this application is said to be to, among other things, improve fish health in the subject farm and enable better biosecurity measures to be implemented.

9. The impact of sea temperatures at or above the critical point and associated adverse risks has been underlined by media and other reports that King Salmon's new BOI farms in the Pelorus - supposedly especially chosen to avoid this issue - suffered very high mortality rates in the summer of 2017/18 and again in last summer, this after only three years of operating within the constraints of stage one. Unfortunately no farm specific mortality data is available – MPI collects this information but refuses to release it citing commercial sensitivity. We maintain this is unacceptable in light of the applicant's poor biosecurity record, reports of heavy mortality, the fact NZKS occupy high environmental value public marine space and the acknowledgement by NZKS they seek to improve fish health and bio security risks via this application. This information is vital to allow the Hearing to objectively address the issue of appropriate fish density on a per pen basis. This application highlights the critical oversight in the feed discharge conditions attaching to these farming operations – stock density is more critical than feed discharges as to the timing of the onset and severity of fish health issues. We urge the Hearing Commissioner to request the specific farm mortality information from MPI.

10. Given these risks the Association was very surprised to become aware through its background research when reviewing this application of how NZKS is, through a series of non-notified applications, carefully dismantling the BOI conditions as its farming operations suffer setbacks. This application is another example of this process, which, we understand, is referred to as resource consent creep. Here, rather than adapt by reducing the scale and intensity of its operations the applicant is seeking to spread its effects over a wider area by radically increasing the maximum area of the net pen surface structures by some 50% from 1.5 has to 2.25 has.

11. The application should, we submit, **be declined** on this basis alone.

### **Resource Consent Creep**

12. A relevant example of this resource consent creep is the variation NZKS sought in 2018 to Condition 37 of its resource consent for this farm. This variation was granted on a non-notified basis by MDC in October 2018. The BOI consent required that feed discharges only be ramped up at the end of stage one against certain requirements. Condition 37 essentially requires NZKS to have been operating within 15% of its current annual maximum annual feed discharge (3000 tonnes) for **at least 3 years and** meet certain monitoring requirements before there can be an increase from 3000 tonnes to 4000 tonnes of feed discharge.

14. NZKS became aware that in the monitoring period 2018 (the third year) it would not meet the requirements of condition 37. This was, NZKS confirmed in its variation application, due to high sea temperatures with associated elevated mortalities and thus a consequential reduction in fish to eat the feed. Ultimately NZKS could see that Condition 37 was a barrier to them increasing from 3000 to 4000 tonnes anytime soon.

15. Somehow NZKS persuaded the Marlborough District Council (MDC) that it was highly unlikely (based on the previous two years of monitoring) that even if NZKS had been putting feed in during 2018 at the previous two years level that the other monitoring indicators would be exceeded. Unfortunately this belief cannot in fact be tested in the manner required by the BOI set

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<sup>1</sup> Intelligence Report – NZ-RLO & *T. Maritimum* 2015 response, MPI Technical Paper No. 2017/39

conditions. It deals a real blow to the precautionary stance taken by the BOI when setting this adaptive management framework and conditions.

16. The intent, we submit, of the original conditions was to make sure that, in reality, the benthic and water quality measurements were not causing undue enrichment at the feed maximum i.e., 3000 tonnes.

17. The decision to do away with that requirement and allow NZKS to notch up the feed discharge by another 1000 tonnes despite the much lower feed level is extraordinary and **goes against the carefully thought out package of the BOI stipulations.**

18. We note that the 2018 monitoring report was not available at the time the application was made. Given the loose logic assumed by NZKS and, amazingly, accepted by MDC we submit that the applicant be required to have the Cawthron Institute have the 2018 monitoring results extrapolated from the actual discharge of just over 2160 tonnes by assuming that the level of discharge in 2017 (nearly 2900 tonnes) was in fact what was achieved in 2018 and see how that exercise impacts the likes of condition 37(c) and 40.

19. We also note our understanding that **notwithstanding a sharp drop in feed discharges (over 28%) a number of the monitoring indicators did not improve.** Even the Cawthron Institute seemed surprised by this. Further, as we understand the Cawthron report the effects area (depositional footprint) is expanding rapidly and significantly outside the consented effects area. Increasing the pen area by 50 % as is now proposed will have, we submit, an increase of up to a similar magnitude on the depositional footprint. This is not a minor adverse effect. The applicant has advanced no evidence as to the impacts from an ecological viewpoint on the local environment from the spread of these nutrient loaded depositions. The application should be declined on this basis.

### **Pen Numbers at Waitata Farm**

20. In November 2018 MDC, again on a non-notified basis, allowed NZKS to vary the pen layout. Of particular interest is confirmation from NZKS (see page 2 paragraph 6 of the application received by MDC on 18 September 2018) that, at that time, although the number of pens consented was eight in actual fact the number installed was **only four.**

21. At the same time **another** 60 visually deleterious additional buoys were sought as NZKS grappled with the structural and engineering stresses posed by its preferred very high flow site. Indeed comparing the original consented layout of U140294 it is immediately obvious that many mooring lines are doubled, tripled or even quadrupled in the new farm layout.

22. There are also numerous abandoned screw anchors and temporary mooring blocks littering the seabed within the consented farm area. The initial row of 4 cages has been repositioned to a 2 by 2 configuration. The barge is still within the 1.5 ha cage area, but moved to be approximately 70 meters away from the cages (it was 40 meters). The location of the 90 mooring buoys are not shown on the drawing, but some, we understand, have been installed.

23. It would seem that in January 2019 NZKS made an attempt to transfer 4 pens from its Waihinai farm into the Waitata Farm. This operation met with considerable technical difficulties due to the plethora of buoys now dotted around the structure resulting in a fairly spectacular

failure of the Pen Tow<sup>1</sup>. It was only some time **later in 2019** four pens were, we understand, successfully added to the Waitata farm bringing the number of pens up to the consented number of eight for the first time.

### **Achieving the Purpose(s) stated to be behind the application**

24. As can be seen for much of its short operating life the farm has operated with four pens. This has only now - in 2019 - been increased to the original consented eight. It seems to the Association that the **inherent unsuitability of the Pelorus for salmon farming** is catching up with NZKS even at these much-vaunted high flow sites.

25. Accordingly, reducing stock density to improve fish health and achieve best practice biosecurity practices is commendable albeit somewhat late in the day. What is alarming is the lack of any effort by the applicant to set out as to exactly how they intend to go about this exercise re selecting the appropriate maximum stock density. This oversight needs to be corrected by the applicant and its methodology and rationale circulated to the submitters before the hearing. Further, can we be sure this is what is really driving NZKS in making this application and not, say, looking to ramp up feed discharges? We submit the application lacks essential data that NZKS has readily available to allow the Hearing Commissioner to make this assessment.

26. We note the critical assumption by NZKS and its advisors that the mortality event of the summer of 2017/2018 was a one off event. However as the temperature graph for the summer of 2018/2019 shows, that whilst not reaching the peaks of the previous year, the critical limit of 17 degrees and above persisted for longer. Indeed the temperature profile is much like the high mortality 2015 year when hitherto unknown (to NZ) pathogens were found to be present in the mortalities.

27. As noted the application is lacking in NZKS shedding any statistical light or data on the level and severity of mortality events and associated fish densities. If the mortality data is not forthcoming from NZKS (and we submit it should be) we **recommend** the Hearing Commissioner approach the Bio-Security division of the MPI and request the mortality data NZKS is required<sup>2</sup> to supply to MPI for the months of November 2018 to May 2019 to ascertain just what happened. The application is also lacking in setting out just what were the actual fish stocking ratios/densities in 2017/2018 and 2018/219 in the operational pens. This should be corrected and the data circulated to submitters prior to the hearing.

28. The Association submits that from a fish health and biosecurity view point it seems prudent to decline the application to expand the pen area and number of pens whilst **lower** stocking densities are set and trialled over the originally consented eight pens and the results analysed. This is a viable alternative to the applicant's proposal which has not been addressed by the applicant, and from a legal perspective should have been. The application should be declined on that basis.

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<sup>1</sup> Cameron Johnston, 17 January 2019 Incident investigation report Pen tow failure at Waitata Bay <https://www.marlborough.govt.nz/property-search/files?url=https://data.marlborough.govt.nz/trim/api/trim/get/id?1959812&name=Waihinau%20Bay%20-%20Waitata%20Bay%20Tow.pdf>

<sup>2</sup> Requirement to provide information under s43 Biosecurity Act 1993 dated 12 October 2015 from MPI to NZKS.

29. The Association submits that this is how adaptive management should and was intended to operate.

### **Engineering Issues**

30. The BOI and high flow sites are clearly testing the engineering and structural capability and competence of NZKS. Accordingly we are concerned at the lack of a independent engineering assessment of the proposed layout bearing in mind the extra stress's another four pens will bring to this already stressed structural design. The applicant should be required to remedy this aspect as soon as possible so the Hearing Commissioner has the opportunity to review and assess the same (and if necessary seek independent advice) well prior to the hearing.

### **Landscape and Natural Character Issues**

31. The BOI identified areas such as the Waitata Reach as some of the least modified areas in the Sounds from a landscape and natural character viewpoint. What we have here is a particularly ugly and growing "like topsy" (if NZKS has its way) area of industrial activity in an area of high intrinsic value. We beg to differ from the rosy view taken by the NZKS landscape expert that the expanded operation will have only a minor effect on landscape, amenity and natural character. We say it is a significant adverse effect.

### **King shag Issues**

32. Other submitters will, we understand, cover this aspect in more detail. Suffice to say that this area is an important feeding area for these critically endangered birds and the extent of this operation and its potential adverse impacts on the King Shag mean, we submit, that this application should (in keeping with the terms and requirements of Policy 11 and the precautionary principal of Policy 3 of the New Zealand Coastal Policy Statement) **be declined**.

### **Grant of new space proposal – Cumulative Adverse impacts**

33. NZKS is also waiting for the Minister's decision on the above. NZKS may be getting more space in Waitata Reach. The result of that process is relevant to assess the need to exceed their current consent and also assess cumulative effects on Waitata Reach natural character and landscape. The application should be declined on the basis it is not appropriate to proceed until these issues can be properly addressed (or there is no need to address the same).

### **Conclusion**

34. The Association submits that for the reasons outlined above the application should be declined. It does not meet the strict and tough tests of section 104D of the RMA.

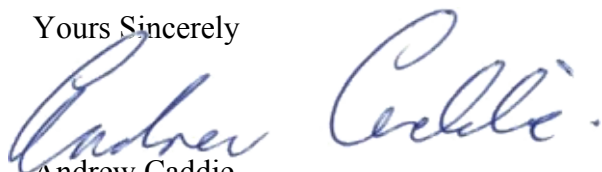
35. Bearing in mind the unfortunate changes to condition 37, the Association submits that it is more likely than not that the consequence of increasing the number of pens and surface area available at the farm is enhanced biological and environmental risks arising from the very real threat of high fish mortality events and disease impacting on the expanded farm operations owing

to regularly elevated sea temperatures. Accordingly, if the applicant's consent is to be granted we submit these risks need to be addressed by amending the current consent conditions to require the applicant to:

- detail how they intend to improve fish health and biosecurity within the current pen layout and consented area as they ramp up the feed discharge levels,
- detail how they intend to (in due course) improve fish health and biosecurity within the expanded pen layout and consented area as they ramp up the feed discharge levels,
- advise the maximum stocking densities by which each pen will be operated and the rationale by which that proposed maximum density will improve fish health and biosecurity matters over the critical months of November through to May (**critical period**),
- keep the MDC promptly informed over critical period as to the level of mortalities on a monthly basis,
- advise MDC as to the fish stock densities on the farm at the start and end of each month over the critical period ,
- over the critical period have mortality analysis carried out on randomly selected mortalities by a suitably qualified and independent organisation;
- promptly supply those mortality analysis reports to the MDC and MPI Biosecurity together with advice as to how it intends to address any issues highlighted by said reports: and
- require NZKS to promptly scale back its programmed feed discharge levels as pre-set mortality levels and/or disease parameters are exceeded.

36. The Association advises that we wish to be represented at the hearing and in the interim kept informed as the applicant or the regulator produces technical papers and any relevant other information etc. Please respond to the email address given below.

Yours Sincerely



Andrew Caddie

KCSRA

President

Email - [president@kcsra.org.nz](mailto:president@kcsra.org.nz)

CC to NZKS C/;

Email Address: [jmarshall@gwlaw.co.nz](mailto:jmarshall@gwlaw.co.nz)

# Schedule One

