



Manager, Resource Consents
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29 September 2020

Dear Sir/Madam

**Kenepuru and Central Sounds Residents' Association
Submission on Resource Consent Application U180586 -
Pig Bay – Port Gore, Te Anamāhanga –
Wainui Green Limited and Two MF Limited (PB Partnership).**

I write in my capacity as President of the Kenepuru and Central Sounds Residents' Association Inc., (**Association**).

Introduction

- 1.1 The Association was established in 1991 and currently has approximately 320 household members who live full time or part time in the Kenepuru and Pelorus Sounds. The Association's objects include, among others, to coordinate dealings with central and local government and represent members on matters of interest to them.
- 1.2 A few years ago members became concerned at the seemingly endless tide of marine farm applications in the Kenepuru and Pelorus Sounds without regard to the cumulative adverse impacts on what is often referred to as a unique and iconic New Zealand environment. We decided to make a principled evidence based stand. Consequently the Association has built up a sound knowledge and understanding of issues concerning the unsustainability of some marine farming in the Sounds. We have also learnt that this rampant expansion was often haphazard with little appreciation of the adverse impacts on the ecological values of some of these sites. Accordingly applications such as this one should be seen as an opportunity to revisit and re-evaluate the tradeoff between economic development and significant adverse environmental impacts.

Background Context

- 2.1 The application the subject of this submission is located in Pig Bay in Port Gore, Te Anamāhanga, in the Outer Marlborough Sounds. It is one of New Zealand’s more remote locations. By road it is more than three hours from Blenheim, the last section of which is on a private road. Small boats may be launched off a beach but there are no wharves or jetties there. Vessels accessing Te Anamāhanga do so by rounding either Cape Lambert from the west or Cape Jackson from the east. Both of these capes project into the northern entrance of Cook Strait. There is a scattering of houses with few permanent residents. Sheep farming, tourism, tramping, fishing, diving, nature conservation and marine farming are the predominant activities in the area.
- 2.2 The subject application concerns a request to “renew” an existing farm consent/license for the marine farm referred to as MF 8167. It is the only marine farm left in Pig Bay. The original consent/license was granted in June of 1993. MF 8167 has a consented area of 6.0 hectares. The marine farm consent/licence U941457 / MPE122 have already expired on 13 January 2019. Most of Port Gore including Pig Bay is zoned CMZ1, or the coastal marine zone where aquaculture is not allowed under the Marlborough Sounds Resource Management Plan (MSRMP).
- 2.3 This farm is listed in Appendix D2 of the MSRMP, one of seven marine farms in Port Gore and the only one on the list that still exists. The farm status is discretionary for marine farms in Appendix D2. Section 104B of the Resource Management Act 1991 (RMA) states that after consideration of an application for resource consent for a discretionary activity, a consent authority may grant or refuse the application.
- 2.3 It is worth noting in the context of this application that in 1999 consents were granted for two other marine farms in Pig Bay, MF 8165 (U950880, 2 ha) and MF 8166 (U950881, 4 ha). The “renewal” applications for these farms were declined by MDC, subsequently declined on appeal by the Environment Court and finally the appeal to the High Court was dismissed¹.
- 2.4 The Board of Inquiry (BOI) convened in 2012 to hear the New Zealand King Salmon (NZKS) application for nine new salmon farms in the Marlborough Sounds. The BOI granted four of the applications, one of these was in Pig Bay, in Port Gore, Te Anamāhanga. The BOI decisions were appealed and in the end the Supreme Court overturned the BOI decision for the Pig Bay salmon farm and the consent was refused.

¹Clearwater Mussels Limited v Marlborough District Council [2018] NZHC 961 [3 May 2019] – U180586

Renewals or New Application

- 3.1. As we understand it the application is not technically/legally a renewal but in fact an application as if it were a new application. In other words the fact that there are existing farmed areas should not be a factor when considering the adverse effects - including cumulative effects - arising from this application (*section 104(1)(a) of the RMA as applied by Judge Jackson in the Port Gore decision of the Environment Court*²). In other words would we put a farm there now given what we now know? **We say no.**

Cumulative Adverse Landscape and Natural Character

- 5.1 The operative Marlborough Sounds Resource Management Plan (MSRMP) identifies Areas of Outstanding Landscape Value (AOLV). Map 75 of the Marlborough Sounds Resource Management Plan (MSRMP) identifies Pig Bay as an area of outstanding landscape value.
- 5.2 We are of the view that the continued existence of the farm adversely affects the Landscape and Natural Character values of the area. These adverse effects can be avoided by taking the opportunity presented by this application and **decline** the application. We submit this outcome is in line with the requirements of the MSRMP and the New Zealand Coastal Policy Statement 2010 (e.g. Policy 13 and 15).
- 5.3 We note that most of Port Gore, both land and seascapes, including the Pig Bay area, is labeled Outstanding Natural Features and Landscape (ONFL) in the MEP. Whilst this aspect of the MEP has yet to be resolved we submit that the application cuts across this designation as well and should be **declined**.
- 5.4 The Environment Court identified the relevant objectives and policies in the Coastal Policy and the Sounds Plan for the two adjacent marine farms³. Provisions of particular relevance it identified were the Marlborough Environment Plan mapping relating to identified areas of Outstanding Natural Character (ONC) and Outstanding Natural Features and Landscapes (ONFL).
- 5.5 The Environment Court concluded on this issue:

[210] For those reasons, we find that the Proposals would:

- (a) offend the natural character objectives and policies of the Sounds Plan and the [Coastal Policy Statement];*
- (b) fail to recognise and provide for the matters in s6(a) [of the Act]; and*
- (c) therefore, would have a significant adverse effect on the natural character of Pig Bay and Port Gore.*

²**Port Gore Marine Farms v Marlborough District Council [2012] NZEnvC 72, Para 140**

There are two preliminary issues. First we need to bear in mind that we must imagine the environment, for the purposes of section 104(1)(a) of the Act, as if the three marine farms are not actually in it. We were not referred to any direct authority on that, but it is a logical consequence of the expiry of the earlier permits. If we had to take the continued presence of the farms on site into account it would undermine any persons' claims to be adversely affected. To that extent the question we asked at the beginning of this decision is slightly inaccurate: the case is not, at law, about whether resource consents should be renewed but, subject to section 104(2A) which we discuss later, whether they should be granted (emphasis added).

³*Clearwater Mussels Ltd v Marlborough District Council*, above n 1, at [210] .

Amenity values

6.1 Port Gore, Te Anamāhanga, is perceived as a wild and remote place. Marine farming is out of place in this unmodified natural environment, as experienced by people. This was recognised at the time of writing of the MSRMP, hence the CMZ1 zoning and the Appendix D2 list, where the listed farms would have discretionary status only and consents could be declined in future.

6.2 The Environment Court concluded on this issue:

[208] Coupled with those actual and potential adverse effects on biotic and abiotic attributes that inform natural character, we find that there would be a localised degradation to natural character arising from how people would perceive the presence of the uniform grid of lines and buoys and, to a small extent, the night time navigation lighting. In particular, from closer views (in the region of 400m-500m), these physical changes to the environment would disrupt the relationship between landform and seascape at Pig Bay. That would have a consequential degrading effect on perceptions of Cape Lambert, as well as the relationship of that cape to the Outer Port Gore waters and Cape Jackson.

6.3 This application detracts from the amenity values and should be **declined**.

Biological reports

7.1 According to the applicant's accompanying Biological report⁴ there were no biological reports found in relation to marine farm site 8167. The implication of this is, that no environmental report was produced, before this farm was approved in 1993. For the neighbouring farms 8166 and 8165 biological reports were produced before the farms were granted and again as part of the renewal applications in 2014. It is clear from these reports that Pig Bay is a highly varied and valued marine area. Combined, the reports describe the marine environment in Pig Bay to the north and east of the application site. We submit that these reports are important in demonstrating just what a high biological and ecological value bay the existing farm is sited in. We submit they underline why declining this application presents an **opportunity** to recover and enhance the important biological values of the area.

⁴Davidson, R.J.; Richards, L.A.; Scott-Simmonds, T. 2018. Biological report for the re consenting of marine farm 8167 in in Pig Bay, Port Gore. Prepared by Davidson Environmental Ltd. for PB Partnership. Survey and monitoring report no. 892.

King Shag

8.1 We note the close proximity (1.8 km) of the site to the Hunia King Shag colony. The King Shag is an endangered and iconic species, a bird unique to the Marlborough Sounds. Port Gore, Te Anamāhanga, is we submit prime King Shag area for this threatened endemic species, with around 44 of the total population of 815 birds or living and breeding there⁵. Port Gore, Te Anamāhanga, is part of the Important Bird Area of the Marlborough Sounds, which encompasses the foraging area of the King Shag. Marine farms can present an unacceptable potential adverse impact on the King Shag, which should be avoided by declining this application. This is in line with the requirements of the New Zealand Coastal Policy Statement (see policy 11).

8.2 Citing the High Court on this issue:

[30] Generally, the (Environment) Court was concerned about the potential adverse impact that the Proposals would have on the King Shag; the ecological and biodiversity values; and the lack of effective ecological mitigation offered by Clearwater. The Proposals were supported by neither the Coastal Policy Statement nor the Sounds Plan.

[31] The Court said declining the Proposals would likely mean a net positive potential ecological effect generally, and that granting the Proposals would not recognise and provide for the matters in s 6(c) of the Act.

8.3 We submit this application should be **declined** on this basis alone.

Decline Application

9.1 For the reasons set out above and elsewhere in this submission this application appears to be for a discretionary activity. The Association is of the view that for the reasons set out in this submission the application should be declined.

Request to Appear

10.1 The Association confirms that it would like to present/talk to this submission at the public hearing and will be represented.

⁵Bell, M.; Frost, P.G.; Melville, D.S. 2020. Population assessment during the non-breeding season of King Shag in the Marlborough Sounds, February 2020. Unpublished Technical Report to New Zealand King Salmon. See table 2.

Conclusion

The Association is of the view that the application offends against the objectives and policies of the New Zealand Coastal Policy Statement and the relevant Marlborough Plans. It stands to have a more than minor environmental impact. For these reasons and the matters set out above the Association submits the application **should be declined**.

Yours faithfully

A handwritten signature in blue ink that reads "Andrew Caddie". The signature is written in a cursive style with a period at the end.

Andrew Caddie

KCSRA

President

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