

Kenepuru & Central Sounds



Kenepuru & Central Sounds Residents Association Inc.

Manager, Resource Consents

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13 July 2022

Dear Sir/ Madam

**Kenepuru and Central Sounds Residents' Association
Submission on Resource Consent Application
U220287 –Mills/Goulter Bays – Clarke Island Company Ltd.**

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

1. Introduction

- 1.1 The Association was established in 1991 and currently has approximately 280 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 Of particular interests to members is the preservation and safeguarding of the integrity, form, resilience and functioning of the unique and iconic coastal environment making up the Marlborough Sounds.
- 1.3 To this end the Association has actively engaged in the likes of the Marlborough District Council (**Council**) planning process leading up to the release of the proposed Marlborough Environment Plan (**MEP**). We made extensive submissions on the same and supported those submissions at the Council various hearings. We have as a section 274 party made the considerable effort to participate in several of the appeals on the proposed MEP currently winding their way through the

Environment Court process. Our submissions have included considered comment and evidence on the adverse impacts of commercial forestry operations in the Sounds coastal environment (eg. sedimentation issues) and how they might be mitigated.

- 1.4 For the reasons set out in this submission we are **unable to support** the application in its current form. In order to finalize our view as to if the application should (in part or whole) **be declined** we need additional information and/or confirmation the applicant is willing to amend the application in the manner suggested in this submission.

2. Sensitive Location

- 2.1 In addition to the area identified in the application being rated an outstanding Natural Feature and Landscape (ONFL) within and above the forestry block the immediate wider area in which the application the subject of this submission is located contains several other areas identified as being ONFL in the MEP - eg the peninsula known as Weka Point immediately in front of the proposed location of the log barge ramp site. The later area is also, quite rightly, rated as an area of very high natural character. Kaiaho Point to the east of Weka Point is also rated as ONFL and carries a high natural character rating. As we understand it, the applicant does not disagree with those ratings in its application.
- 2.2 An assessment of the Policies 13 and 15 of the New Zealand Coastal Policy (NZCPS) statement are thus very relevant we submit to this application. In terms of the impacts on the **high amenity value** attributed, under the MEP, to this area we note that the pine forest area above Mills bay is also directly visible to residents and Kenepuru Road users on the south side of Kenepuru Sound as well as recreational boat traffic.
- 2.3 Much of the application area is erosion prone area with steep to moderate terrain and **soft highly erodible soil types**. An unavoidable consequence of forest harvesting operations in such higher risk areas is the issue of effectively addressing the mobilization and discharge of large volumes of sediment into (in this case) the adjacent coastal marine area.
- 2.4 In recent times the Council has produced¹ or commissioned² several reports identifying the role of forestry operations in the unfortunate discharge of large amounts of sedimentation and other debris into the Sounds coastal marine area. A recent referred paper in the New Zealand Forestry Journal by a former Council environmental scientist also paints a disturbing picture of the adverse consequences of, and thus need to more effectively manage, sediment discharges from forestry operations in the Sounds³. Policy 22 of the NZCPS is thus very relevant to this application. Council has also responded to such adverse impacts from forestry

¹ Mitigating fine sediment from forestry in coastal waters of the Marlborough Sounds – MDC technical report no 15- 009 - November 2015

² “Sources of fine sediment and contribution to sedimentation in the inner Pelorus Sound” – A. Swales et al - NIWA - prepared for MDC – September 2021.

“A 1000 year history of seabed change in Pelorus Sound” -S Hendley et al – NIWA - Prepared for MDC, MPI and MFA – April 2017

³ S Ulrich – “Opportunities to manage sediment from forestry more effectively in the Marlborough Sounds and contributing Catchments” - NZ Journal of Forestry August 2020 Vol 65, No 2.

operations on the coastal environment area with, among other things, the insertion of Rules 4.5.4 and 4.5.5 into the MEP.

3. The Application

- 3.1 As we see it the application is best reviewed by reference to its three major components. **Firstly**, the harvesting operation of the 100 odd hectares of forest block it self plus the road and other earthwork operations associated with the harvesting, **secondly** construction of a 4000 square meter log marshalling yard and **finally** the proposed access way through the Foreshore reserve to the eight (8) meter wide proposed log barge ramp extending some 50 meters out into the shallow waters of Mills Bay.

4. Harvesting the Forest Block

- 4.1 The Sounds is an area of high rainfall and regularly experiences **significant rainfall events**⁴. It is also important to note that such rainfall events can occur at any time – in other words the period November to April also regularly experiences significant rain fall events⁵. The significant adverse impacts of such events on recently harvested areas have we submit been well publicized over the last few years.
- 4.2 Accordingly, the Association in its submissions to the MEP hearing panel advocated, for areas such as the subject application, that harvesting operations be undertaken in a tactical manner. In particular move to encourage a staggered paused coupe based harvesting approach taking into account methodology, terrain, and waterways given the need to reduce sedimentation loadings into the coastal marine area. We also submit that the conditions of the land use consent (if granted) should acknowledge the realities of rainfall in the Sounds and the likely adverse impacts of continuing harvesting activities at such times with sufficient direction to be able to require a pause to such activates⁶.
- 4.3 We are pleased to note the applicant has started down this desirable and necessary path, with references to harvesting the 100 hectares over 2/3 years, operating only in the drier (one hopes) “summer months” etc. However we submit the wording and commitment is vague and dos not necessarily align with the harvesting plan. Further, the harvesting plan lacks detail as to what is to be done when and where.
- 4.4 This needs, we submit, to be addressed as a significant part of the block is rated as being a **high-risk area in terms of erosion susceptibility** with the presence of several ephemeral watercourses (hydro links?). Further this area is the closest part of the block to the coastal marine area. As far as we can ascertain from the applicant’s harvest plan this area is to be logged using ground-based methods (wheeled skidders?) pulling logs **down the slope** to skid sites located adjacent to

⁴ For example see S. Ulrich footnote 3 above at figure 2, page 30

⁵ We note the applicants harvesting and roadlining activities seem to be set down for periods well outside the “summer “ months

⁶ The recent debacle during harvesting activities at East Coast Bay in such a situation is a case in point for the appropriateness of such conditions. We note section 3.10 of the PF Olsen report contains the gem of how this might be achieved.

Kenepuru road. This direction of travel seems counter intuitive in terms of mitigating ground disturbance etc.

- 4.5 Fortunately the Council, the hearing panel and the applicant can now use a very useful, recent and local precedent for a similar sized harvest area also in a sensitive location (Mahau Sound). The outcome of Council resource consent application U210437 is we submit very germane to this application in terms of how to agree a coupe based harvesting plan to minimize adverse environmental effects in compliance with the intent of the Resource Management Act (**RMA**), NZCPS and other relevant planning instruments.
- 4.6 After discussion that applicant made – the Mahau decision document records – several key changes. In essence that applicant carried out more detailed planning of harvesting across the site and identified specific methodology in response to the topography of the land to minimize the volume of earth works required and harvest logs in a manner that reduced land disturbance. Then the applicant agreed to divide the harvesting of the forest into several smaller blocks, spread out spatially across the site and stagger the harvesting over three harvesting cycles **with a one-year gap** between each cycle.
- 4.7 In the absence of the Mahau Sound approach being adopted by the applicant for this forest then, as we see it, the current proposal does not meet the requirements of Policy 22 of the NZCPS and as such this part of the application **should be declined**. Accordingly we respectfully suggest the applicant discuss with Council how it too might better mitigate sedimentation and other adverse effects from its proposed harvesting operations **using the staggered coupe harvesting approach set out in U210437 as a precedent**. Such an approach will also mitigate we submit the resultant adverse impacts on the High Amenity Values for residents of and visitors to the Kenepuru Sounds area of the activity.
- 4.8 As a general note, and perhaps something to be elaborated on by the applicant's forestry advisers at any hearing, is the proposed degree of discretion to be granted to the unnamed contractor(s) as to the location and extent of earthworks (which presumably includes culverts) and how that might work in practice. Again we note **the tighter**, and we submit better practice, approach of the management of harvesting and earthworks conditions as set out in U210437 eg see conditions 1 and 10.
- 4.9 In terms of monitoring we note **with approval** the suggested monitoring and reporting approach of the applicant as set out in section 3.9 of the PF Olsen section of the application. Noting the reasonably remote location of the forest we submit that these environmental and other compliance monitoring reports be also passed onto Council and **a condition inserted** to that effect. A point of detail is that the application is perhaps a little unclear in terms of the proposed works and scale. For example, the summary (section 4.5) of the application does not refer to the marshalling area. We respectfully submit that a central and concise description of the works and estimated volumes be set out as per the decision document of U210437 at page 2.

5. Log Marshalling Area

- 5.1 This 4000 square meter area is to be located on the property of interests associated with the applicant and **very close**, on at least one side, to the Foreshore reserve. As such it is in a **highly sensitive area** just in terms of potential discharges. Policy 22 of the NZCPS should, we submit, be in front of mind of the applicant and Council when considering this aspect of the application.
- 5.2 The area is currently afforested and removal of the same will be an intensive activity requiring subsequent earthworks eg leveling and contouring the resultant area. Given the likely scale of these works, it is appropriate we submit for Council to have a clear understanding and commitment from the applicant as to where any “surplus” earth or other material is to be disposed of.
- 5.3 Once in operation it will, from time to time, be a hive of activity as logs are unloaded from the log trucks, perhaps cut to length, sorted into grade sizes, and then transported down the access way to be loaded on to the receiving barge. Given this, a number of matters need, we submit, to be addressed in greater detail by the applicant. In particular we submit a **detailed plan** of works/layout along with the how and where sediment run-off measures will be installed **is required**.
- 5.4 Of necessity there will be a considerable increase in heavy traffic to and from various parts of the subject forest along a relatively short stretch of Kenepuru Road. The latter is on a “soft” and often unstable substrate. We await the Marlborough Roads report as to the suitability of the current road surface and bearing in mind it is on the shady side, what upgrade works might be required. Finally we note the log marshalling area is an integral part of the proposed barge ramp albeit not located in public space.

6. Background to Log Barge Ramp Infrastructure in the Kenepuru sound

- 6.1 As the applicant records, transporting large volumes of logs to market along the narrow, windy and soft Kenepuru road is far from ideal in terms of creating road safety issues for other users, and preserving the security and integrity of the road. In 2015 the Association realized the scale of the volume of logs (potentially in excess of 500,000 tonnes) that forest owners might wish to take to market on the unsuitable Kenepuru Road. The July 2021 storm event, which wrecked considerable damage to southern side sections of Kenepuru road, underlines the soft and unstable nature of the road and unsuitability for intense volumes of heavy traffic..
- 6.2 Since 2015 the Association has spent considerable time with the Assets and Services section of Council and Marlborough Roads drilling into the size and timing of the commercial forest harvest and considering the options. Upgrading Kenepuru road to a safe, suitable standard and design was seen as prohibitively expensive.
- 6.3 The alternative (and not uncommon in the Sounds) is sea transportation - barge. This requires one or more well located barge ramps accessible to local forest owners. Council grasped the problem and has allocated a significant budget to assist. Unfortunately progress on this initiative, has, despite strenuous and at times we understand encouraging discussions with industry and forest owner representatives, **stalled**. The Association was not party to those discussions but Council officers may have a more nuanced view as to why in the end nothing came of them.

6.4 Whilst any log barge ramp proposal still needs to be carefully assessed in terms of the likes of unacceptable adverse impacts on the sensitive coastal marine area **we are heartened** by the emergence of this proposal as it potentially offers infrastructure for a new sea transport way out for logs from a number of commercial forests, at or fast approaching maturity, located on the North side of the Kenepuru. However, we understand that at this point in time the applicant (and/or landowner - interests associated with the applicant) is unwilling to grant access to logs (on commercial terms) from other forests to the proposed log marshalling area, barge ramp and the associated access ways. This seems most unfortunate given the proposed use of public space and positive efficiencies and environmental outcomes if more than one forest owner is able to use one log barge facility to take logs to market.

7. **The Proposed Barge Ramp - Use existing infrastructure?**

7.1 The construction, operation and decommissioning of the proposed barge ramp and associated structures in the sensitive coastal marine area and coastal environment generally (including adjacent areas already identified as ONFL and very high/ high natural character) will be a significant invasive and adverse impact activity. Potentially in breach of various policies of the NZCPS and should not we submit be undertaken lightly.

7.2 In this regard **it is most unfortunate** that the application does not address the suitability or otherwise of existing barge ramp infrastructure. It would be most unfortunate, inefficient and, we submit, a misuse of natural resources if every forest owner in the area was to construct their own barge ramp and associated structures (see also Section 7(b) of Part 2 of the RMA). Further, the adverse cumulative effects on the Kenepuru environment and associated coastal marine area would be significant. As it turns out 5 kms or so, by road, from the proposed access way to the foreshore reserve is the **Te Mara Point barge ramp**.

7.3 We submit the applicant needs to carefully address for the hearing panel why this potential solution was rejected. Failing that evidence from Council and/or Marlborough Roads (who we understand has oversight over the likes of jetties and barge ramps) should be provided as to the merits or otherwise of this alternative. If this review raises no real obstacle to use by the applicant of the Te Mara Point barge ramp then, we submit, this part of the application **should be declined**.

8. **Construction of the Proposed Log Barge Ramp Site**

8.1 The construction and operation of the proposed barge ramp will be a significant and invasive new activity in Mills Bay. The potential cumulative adverse impacts on the additional ONFL and Natural character areas we identified in paragraph 2.1 are of significant concern. Unfortunately, the application does not we submit, provide a suitably qualified expert view as to if this activity will trigger the NZCPS **“avoid” policies** 13.1(a) (Natural Character) or policy 15(a) (Natural Features and Natural Landscape)⁷. We submit that the Council should obtain expert advice to address these very important and potentially critical issues in order to assist the hearing

⁷ We submit that, with all due respect, the fairly bland and generic two-line summary in section 6.1 of the Planners report falls well short of the expert review this significant application merits.

panel in deciding if this part of the **application be declined or not** at the hearing.

- 8.2 Further, we submit that a careful expert review of the general area in question is likely to raise significant issues, particularly around adverse cumulative effect impacts, given the degree of existing consented development in this area. An expert assessment of these Natural Character and Landscape values against the requirements of **Policies 13(b) and 15(b)** of the NZCPS is we submit required. Again, we look to Council to address these important policy matters.
- 8.3 The construction of the 50 m ramp will involve the cartage and placement of significant quantities of rock and metal (estimated by the applicant to be around 800 cubic meters but we submit likely to be closer to 1000 cubic meters). The PF Olsen Forest Earthworks Management Plan contains some detail as to the construction of the barge ramp at pages 3.9 and 3.10 together with a schematic drawing of its specifications at Appendix 3.
- 8.4 The applicant states suitable rock material will be sourced locally or barged in. The PF Olsen report envisages that construction will extend from the beach area out. We submit the applicant should explain to the hearing panel just how barged in rock material will be able to be placed from the barge given the very shallow nature of the waters closer to the beach. Given the significance of this structure and placement in a challenging environment we submit a **suitably civil qualified engineer** be required **to sign off** on the proposed design and specifications.
- 8.5 The applicant has usefully commissioned a Biological report concerning the establishment of the barge-loading ramp in Mills Bay. That report focuses on the loss under the barge ramp of a relatively small area of higher value (ecologically) shallow cobbles, silt and natural shell zone. This focus seems, we submit, a little narrow and a wider assessment required. In this regard we note NZCPS **Policy 11(b)** dealing with the need to avoid significant adverse impacts and avoid, remedy or mitigate other adverse effects on indigenous biodiversity values. As far as we can ascertain the requirements of this policy **have not** been addressed by the applicant either in this Biological report or elsewhere. Again, we look to Council to provide the necessary expert assessment.
- 8.6 The Biological report makes some useful comments as to the impacts of the construction of the ramp. However, as far as we can ascertain issues such as the impact of the ongoing use of the ramp on the ecological flora and fauna of the wider bay are confined to that emanating from the land. This focus overlooks sea-based impacts.
- 8.7 We note the relatively shallow waters at the end of the proposed 50 m ramp (Figure 5 of the report suggests datum points of 2.5 to 2.8 m) The report advises the substrate at that point is largely soft sediment. We query what impact the ingress and egress of laden and un-laden barges will have in terms of substrate sediment disturbance? We note our comments in paragraph 8.5 above in this context. The applicant gives no indication of the likely volumes of logs from the forest to go across the barge ramp so the number of barge visits etc can be better appreciated. This should **be provided**. We submit some commentary from the barge operators would also be useful for Council and the hearing panel as to the need or otherwise **to restrict the size of, or timing** of, barge operation to minimize such ongoing adverse impacts.

8.8 The Biological report notes that upon completion of harvesting the ramp **should be removed**. In the absence of reasonable commercial terms being agreed by the applicant (and the affected land owner) with Council whereby other forest logs might use the marshalling area and access way to the log barge ramp we submit **the removal of the ramp and associated structures** should be made a condition of the coastal permit sought. In this case it might be prudent, we respectfully submit, that a **bond** in the form of a “clean” bank guarantee or similar to be provided by the applicant company pending such removal in a proper and tidy workmanship like manner.

9. Alternative Site for the Proposed Barge ramp?

9.1 The application does not disclose if in the course of selecting this site the applicant considered other sites and why they have been rejected. Accordingly, we respectfully submit that the Council discuss with the applicant as to locating the Log Marshalling area and barge ramp in Goulter Bay.

9.2 As we see it this would have the advantage of reducing/removing the adverse impacts identified in this submission - especially around our concerns as to adverse impacts on natural character and landscape values. Based on the application (page 5) it appears that interests associated with the applicant company also own some of the land above Kenepuru road in Goulter Bay. As we understand it the location of the Log Marshalling area in his area would have a number of significant advantages over the proposed site such as likely being in pasture and relatively flat. It would also reduce the impact of heavy traffic over to Mills Bay should the applicant (and as appropriate the landowner) decide to allow (on commercial terms) access to the relocated Log Marshalling area.

9.3 In terms of the location of the barge ramp we understand the Council has carried out some research as to the possible location of a log loading barge ramp in the Goulter Bay area including carrying out a bathymetric survey. This work might, we suggest, be easily utilized in a revised application with the end result of creating a more desirable community and environmental outcomes.

10. Conclusion

10.1 For the reasons set out in this submission we are **unable to support** the application in its current form. As currently structured aspects of the application appear to face difficulties in terms of compliance with a number of NZCPS policies, Part 2 of the RMA and the general intent and purpose of the RMA and associated planning instruments. It is possible with some flexibility from the applicant that a number of our reasonable concerns may be addressed. If such flexibility is not forthcoming the application should **be declined**.

11. Request to Appear

- 11.1 The Association confirms that it would like to present/talk to this submission in respect of this covered at the public hearing and will be represented.
- 11.2 The Association advises it is open to meeting with Council staff and the applicant prior to any hearing to discuss the application and the suggestions and submissions in this submission.

Yours faithfully

A handwritten signature in blue ink that reads "Andrew Caddie". The signature is written in a cursive style.

Andrew Caddie
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