

Kenepuru & Central Sounds



Kenepuru & Central Sounds Residents Association Inc.

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20 August 2021

Dear Peter

Re: Application U210497 – Site 8236 Sanford Limited, Beatrix Bay, Pelorus Sound (the ‘Application’)

This is a submission on the above Application. It is filed for and on behalf of the **Kenepuru and Central Sounds Residents Association Inc (KCSRA)**.

1. Background

- 1.1 KCSRA was established in 1991 and currently has approximately 280 household members who live full time or part time in the Kenepuru and Pelorus Sounds. KCSRA’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 cumulative adverse impacts on the ecological and other values of some of these sites – particularly in low flush intensively farmed areas such as Beatrix Bay.

2. Submission and Request for Hearing

- 2.1 Our submission is that the Application breaches acceptable thresholds for marine farming on several fronts and as it stands it must be **declined**. Our principal areas of concern are summarised in following sections.

- 2.2 We would like to be heard on this submission at a **hearing**.
- 2.3 We would welcome the opportunity to discuss a **transitional solution** to managing cumulative effect issues at this marine farming Site 8236 pending spatial matters being operatively determined under the proposed Marlborough Environment Plan (MEP).

3. Cumulative Effects

- 3.1 The adverse cumulative impacts of mussel farms are undeniable - aesthetically, recreationally, navigationally, and ecologically. Cumulative effects should be assessed on an “area of influence” basis – i.e. through the identification of that part of the water column or marine area that is being affected by a particular group of activities or farms, or the identification of that part of a natural landscape or a natural character environment that is being affected by a particular group of activities or farms.
- 3.2 It has been suggested that responsibility for redressing adverse cumulative effects should be spread across all of the existing consent holders in the relevant area of influence. This assumes that existing consent holders have some sort of entitlement to continue their activity beyond their existing resource consents. They do not. Coastal permit holders in the Marlborough Sounds operate through privilege¹. Whilst applicants seeking to re-consent an activity currently have a pre-emptive right to *apply* for another consent², they bring no entitlement to actually attain a resource consent. In any event fairness is not a relevant consideration. The absence of a framework in the MSRMP to attribute the required redress across other consent holders in what might be considered a ‘fair’ way does not condone a Hearing Authority pushing the adverse effects aside.
- 3.3 If an application is made in the face of adverse cumulative effects then those effects must be mitigated or avoided. In our view, and under the current statutory framework, this means that ***applications for a coastal permit renewal must be declined if, with the subject farm in place, it is found that cumulative effects are environmentally unacceptable.***
- 3.4 In our view this part of Beatrix Bay is currently being farmed beyond an environmentally acceptable level. On this basis we submit that the application **must be declined**.
- 3.5 It is expected that cumulative effect issues will be addressed through the Schedule 1 process for the aquaculture chapter of the MEP³. This is expected, through a public and independently adjudicated process, to determine appropriate areas and densities of aquaculture for this part of Beatrix Bay.

¹This is particularly the case in Marlborough, which is now one of the only places in the world where market rent is not charged for the use of public marine space for aquaculture.

²This is under section 165ZH of the Resource Management Act 1991 – but it only applies if a consent right allocation system is not in place. There is currently no such system in Marlborough – although an allocation system is proposed under the Marlborough Environment Plan.

³The MEP aquaculture chapter proposes to determine appropriate areas and densities for aquaculture through a process of identifying and mapping ‘Aquaculture Management Areas’.

- 3.6 We appreciate that some degree of aquaculture at Site 8236 may ultimately be found appropriate under this MEP process. However, this does not mean that the existing intensity can be considered appropriate and consented for 20 more years in the meantime.
- 3.7 To this end **we submit** that an ***agreed transitional area and intensity*** of marine farming on site 8236 might be consented as a transitional measure, along with a consent condition or a consent term that effectively required the adaption to what is operatively determined as the appropriate location, area and density for activity in relation to Site 8236 under the MEP Schedule 1 process (if that turns to be different). We would welcome the opportunity to discuss this further, including what we would see as an ***agreed transitional area and intensity*** of marine farming for Site 8236.
- 3.8 In the following sections we provide more specific comment on cumulative and site specific issues with this application. We group our concerns into Natural Character and Indigenous Biodiversity, Landscape, and Navigation and Recreation.

4. Natural Character and Indigenous Biodiversity

- 4.1 It is accepted that the present intensity of aquaculture has an adverse effect on the natural character values of the coastal marine area. Indeed, the terrestrial area adjacent to site 8236 is rated of high natural character by the proposed Marlborough Environment Plan (MEP) but this rating is not extended into the marine environment. This is undoubtedly due to the intensity of the marine farming in this part of Beatrix Bay.
- 4.2 Natural character extends also to indigenous biodiversity and to the ecological health of the benthic and water column environment. To this end computer modelling we have commissioned shows that this part of Beatrix Bay is significantly above what is considered a safe intensity by the Aquaculture Stewardship Council (ASC)⁴.
- 4.3 This result is corroborated by the NIWA Biophysical Model for the Pelorus Sound, which indicates that there would be as much as 6-8 times more zooplankton in this area without the existing aquaculture⁵.
- 4.4 Almost all of the proposed farm structure is plastic, being ropes and buoys. Within the enclosed waters of just Beatrix Bay alone there is currently around 3,500 km of plastic structural marine farm rope consented, 33,000 plastic mussel buoys consented, and around 250,000 small ‘dropper line’ plastic tie ropes consented. There is a **heavy** loss of plastic into the environment from this, including microplastic from structural rope wear and a significant amount of plastic pollution.
- 4.5 This Application, taken as a new application as it must be, stands to add to or sustain what are more likely than not already significant cumulative adverse effects on biodiversity and natural character values in Beatrix Bay. These are effects that must be avoided under the New Zealand Coastal Policy Statement 2010 (NZCPS) – including policies 13.1 (b) and 11 (b).

⁴Aquaculture Stewardship Council Bivalve Standard Version 1.1.

⁵Figure 5.14 NIWA - A biophysical model for the Marlborough Sounds Part 2: Pelorus Sound June 2015

5. Landscape

- 5.1 Natural character is an aspect of the wider concept of landscape character. Both phenomena are the product of a reasoned, descriptive analyses of a landscape or an area of the coastal environment.
- 5.2 The Beatrix Bay landscape, particularly at the bottom end where this Application is located, is one of undeveloped hills cloaked in native bush that plunge to a seascape unmodified but for marine farm structures.
- 5.3 Adjacent terrestrial area is rated an outstanding natural feature by the MEP. The fact this doesn't extend into the adjacent seascape can only be rationalised by the presence of the marine farm structures in place at the time of the landscape assessment. The seascape is thus significantly adversely affected by the existing intensity of marine farm structures in the area and as such qualifies accordingly for protection under NZCPS Policy 15.

6. Navigation and Recreation

- 6.1 An appropriate marine farm location, size and configuration is one that facilitates unimpeded and safe navigational flow along the coastline inside the farm, through the bay on the outside of the farm, and into the coastline through the farm.
- 6.2 Marine farm structures should be relatively consistently configured for navigational safety reasons, including being consistently contained within a ribbon that mirrors the coastline. The proposed structures here instead effectively back-fill an entire embayment and extend out to almost 600 meters from shore – twice the ribbon size contemplated by the MEP.
- 6.3 The proposed site will also have an irregular line layout that will make it difficult, if not impossible, to discern from the water whether there is any way through the farm to the coastline. This renders public access to the coast unreasonably restricted and as such inappropriate.

7. Non-Complying Activity Gateway

- 7.1 We would submit that as it stands the Application is clearly, and in some instances significantly, in breach of both key MSRMP and key PMEP policies. As such, we would submit that, as it stands, the Application **fails** the non-complying activity gateway test under 104D of the Resource Management Act 1991.

8. Applications and Alternative Proposal

- 8.1 We note the correspondence attached to the application from Gascoigne Wicks addressing the application of section 165J of the Resource Management Act 1991 (RMA). This holds that section 165J will not prevent applications being made in the face of a proposed allocation system if an existing consent holder has preferential application rights under 165ZH.

- 8.2 If this is not correct then the application requests that consideration be given to an alternative - being the continuing of activity at the site in its currently consented location and size but with a structure exclusion zone over an area of rocky substratum.
- 8.3 For the avoidance of doubt, the 'Alternative Location and Layout' proposal made in the application raises more or less the same issues as the 'Preferred Location and Layout' proposal. Accordingly, the objections we raise herein apply to both proposals.
- 8.4 The application does not address the application of Section 165F of the RMA coupled with proposed policy 16.8.1.1 of the MEP. In our view these provisions may effect a suspension on all aquaculture applications (such as this one) until further notice - irrespective of there being a proposed allocation regime in the MEP and thus irrespective of sections 165J and 165ZH of the RMA. We raise this as a matter of record and to reserve our position on this point.

9. Present at Hearing

- 9.1 The KCSRA would like to present to this submission at a **hearing**.

Please let us know if there is any further information that we can provide to assist.

Yours sincerely



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