

Kenepuru & Central Sounds



Kenepuru & Central Sounds Residents Association Inc.

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22 August 2016

Dear Sir/ Madam

Submission on Marlborough Environment Plan (MEP) Commercial Forestry in the Coastal Environment Zone

1. I am presenting this submission on various aspects of the MEP relating to Commercial forestry activities in the Marlborough Sounds in my capacity as President of the Kenepuru and Central Sounds Residents' Association (**KCSRA**).

Who are we

2. KCSRA was established in 1991 and currently has over 260 household members whose residents 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 promote the interests of residents of Kenepuru Sound and adjacent areas, and to promote and act in the best interests of residents, ratepayers and persons associated with the Kenepuru and Central Sounds area.

What do we do

3. KCSRA works hard to represent our members on a range of issues. For example, advocating for better and safer roads and provision of public amenities in places of high visitor use, liaison and representations to the local council and central government, and involvement in local environmental/conservation issues. To see a fuller description of our activities then you should visit our web site and look under the "Public Documents" section (www.kcra.org.nz).

Kenepuru & Central Sounds Residents Association Inc.

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Why are we interested in Forestry in the Sounds in the context of the MEP

4. The Marlborough Sounds is rightly described in the MEP as " the jewel in the Crown" of the Marlborough region. Our members greatly appreciate and value this magnificent area with its striking land and seascapes. Our members appreciate that it is also a fantastic national asset that needs to be safeguarded for future generations of New Zealanders. Sadly, over the last decade or so it has become clear that the marine space of the Sounds is in a poor state of environmental health and under pressure from many sources.
5. Much of this adverse pressure has arisen from past management and regulatory mistakes and oversights. All too often it seems that short term commercial objectives arguing export dollars and jobs have been favoured against long term sustainable management practices/uses. By way of example, this short term focus has seen excessive marine farm development where the cumulative negative impacts (both ecological and other) are only now being identified and grappled with. Again, even factoring in the benefit of hindsight, it seems at best weak and ineffectual or at worst incompetent for past regulators and planners to have supported the establishment of Commercial forestry in the Sounds to within a few metres of the high tide mark.
6. We wish to make it clear that in preparing this submission KCSRA has given careful consideration to the many positive aspects of commercial forestry as a land use. We acknowledge that once established it is, pending harvesting, a stable protective land use in an area where steep, easily erodible landforms abound. We are aware that the likes of the Parliamentary Commissioner for the Environment has produced research showing that average annual run off from forestry over the typical 25/30 year crop cycle is significantly less on average than that from most other stock-based agriculture land uses. Nevertheless, we cannot ignore the reality that in the Sounds well established changing patterns of land use mean that Commercial forestry dominates over other stock-based commercial land uses.
7. Commercial forestry in the Sounds with its long crop cycles has been something of a sleeper sector but in recent times this has changed as more and more forests come up for harvesting and the adverse environmental and other flow on effects become harder to ignore. Thus, for example, in recent times KCSRA has worked closely with the Council in focussing Council's attention on the negative impacts on Kenepuru Road should the significant volumes of timber in the upper Kenepuru be taken to market by road as opposed to sea (barge).
8. The Council has also responded to the significant amount of adverse publicity concerning the negative environmental impacts of fine sedimentation in the marine space from run off associated with forestry harvesting activities. The Council has produced a 61 page publicly available, well researched and peer reviewed report on the matter - "*Mitigating Fine Sediment from Forestry in the Coastal Waters of the Marlborough Sounds (Technical Report no 15 - 009 November 2015).*"
9. Hereafter in this submission we refer to this report as the "**MDC Report**"

The MDC Report

10. The report reviews available scientific publications on the issue, applies these to specific examples, reaches certain conclusions and then makes a number of recommendations as to how forestry operations (harvesting and planting) in the Sounds need to be managed/regulated going forward in order for the Council to comply with Section 5 of the RMA to, among other things, avoid, remedy and mitigate adverse environmental effects in the context of forestry operations in the Sounds.
11. These recommendations include: the use of mandatory replanting setbacks from the high tide mark and water courses (rivers), planting controls on steep sites, requiring mandatory planting controls on steep slopes, implementation of buffer zones around gully heads and steep gullies, replanting to be completed within 12 months of harvesting, the use of minimum stocking rates, detailed harvesting controls, catchment harvest controls, greater oversight/regulation of consequential earth works and so on. As far as we can ascertain the recommendations of the MDC report have not publicly been challenged within Council in any way. Rather they appear to have been accepted as scientifically backed, sensible long overdue recommendations on a serious issue. The KCSRA, based on the MDC Report, also accepts that the scientific and management case has now been made such that the current state of affairs cannot be permitted to continue.
12. We appreciate that the Council was placed, publicly, under real pressure from industry groups to "moderate" aspects of the MEP in the run up to its (partial) notification. We would not be surprised to find that behind the scenes significant pressure was also coming from Central Government to similar intent. Nevertheless, in the face of the case made by the MDC report we are a little surprised to find that there seem to have been only small, faltering and timid steps taken by the policy department of Council to reflect the recommendations of the MDC Report in the MEP. This is, we **submit**, not good enough as the MEP is a once in a generation window to sensibly address Commercial forestry planning issues in "the jewel in the Crown". This is the focus of this submission.

Structure of this Submission

13. In general terms, the structure of the 400 odd pages of Volume 1 of the MEP is to identify issues and then develop objectives and policies to address those issues at a high level. In the 400 odd pages of Volume 2 of the MEP, objectives and policies are reinforced with more detailed rules and standards. The structure of this submission is to briefly look at and submit on aspects of Volumes 1 and 2 from the viewpoint of how well they address the clearly significant issues identified as arising from Commercial forestry operations in the Coastal Environment Zone in the MDC Report and how the MEP might better address these issues.
14. In this submission, a reference to the phrase Coastal Environment as used in chapter 13 Volume 1 of the MEP is **only** a reference to the Marlborough Sounds. Accordingly a reference to the Coastal Environment Zone is a reference to the planning zone identified as such in the MEP and as applicable to the Marlborough Sounds. We briefly consider objectives and policies of Volume 1 of the MEP as they appear to relate to Commercial forestry operations and then focus on some of the rules and standards sections of Volume 2 of the MEP. For the purposes of this submission, we assume that forest established as permanent carbon sink forest is not and will not be permitted to be harvested. We also assume that the planning zone -

Open Space 3 - will not be allowed to be converted into or used as commercial forest or converted into permanent carbon sink forest; it will remain as conservation and recreational use estate.

The MEP and Commercial Forestry Operations - Issues, Objectives and Policies

15. In the short time available to prepare this submission, we decided as of necessity, to focus on the issues, objectives and policies of Chapter 4 (Use of natural and physical resources), Chapter 13 (Use of the the Coastal Environment), Chapter 15 (Resource Quality - soil) and Chapter 17 (Transportation) of Volume 1 of the MEP.
16. **Chapter 4 Volume 1:** We **submit** in support of there being a specific issue (Issue 4C) focussing on the Sounds and with the general tone and intent of the wording of Issue 4C. However, we **submit** that the wording needs to be expanded to properly encompass the real and present impacts in the context of Commercial forestry operations in the Coastal Environment Zone of the Sounds. In other words the MDC Report clearly demonstrates that, sadly, there is no "potential"; rather the "potential" is and has been realised. We **submit** that this could be recognised in Issue 4C by simply inserting the words (... "**and in the case of Commercial forestry activities in the Sounds is doing so.**") at the end of the current wording.
17. We **submit** in support of the wording of Objective 4.3 (maintenance, enhancement of the visual, ecological and physical character of the Sounds) but **submit** that the narrative forming part of Objective 4.3 needs to be amended to clearly reference the need to act in a precautionary way in terms of Commercial forestry operations in the Sounds.
18. We **submit** in support of policies 4.3.1 to 4.3.5 but **submit** that the narrative forming part of policy 4.3.3 (provide direction on appropriateness of use activities in the Sounds) needs to be amended to clearly identify Commercial forestry operations as an activity both likely to and actually impacting on the Sounds environment and thus needing to be subject to resource consent procedures.
19. KCSRA notes, with a little scepticism, the reference in the method of implementation section (4.AER.1) in Chapter 4, the statement that public perception surveys will be used to assess if a majority of the public thinks the health of the Sounds is good. We **submit** that wording needs to be inserted that such surveys will be both independently prepared and implemented and **most importantly** those members of the public surveyed have been given in advance adequate information to make informed responses. We say this in the light of various recent self serving industry focussed surveys concerning their sector's activities in the Sounds that fail dismally on this score.
20. **Chapter 13 Volume 1- Use of the Coastal Environment:** Subject to the assumptions noted in paragraph 14 above, we **submit** in support of the definition of the Coastal Environment Zone as it encompasses the Sounds. We **submit** in support of the identification of the matters identified in Issue 13A. We **submit** in support of Objective 13.1 (areas in the CEZ where adverse effects from particular activities and/ or use are to be identified and avoided). We **submit** in support of policies 13.1.1 to 13.1.2.

21. However, we **submit** that the narrative re Policy 13.1.1 (identifies certain high value areas) is a little confused and/or potentially, unintentionally perhaps, restrictive. Thus, for example, it could be argued that in interpreting this policy, it is only applicable to activities actually within the area having significant values. In the context of this submission it is clear from the MDC Report that Commercial forestry harvesting operations in proximity to significant marine biodiversity areas are or are likely to adversely impact on such areas. Through hard experience in dealing with consent applications, KCSRA is concerned about this potential interpretative ambiguity for such a policy. We **submit** that the narrative of this policy suggests that as the harvesting operation is not physically in the designated area then this policy will **not** be applicable. This should be clarified, we **submit**, by simply inserting in line 3 after the words "*....in the areas with ...*" the phrase "*, or in proximity to, ...*".
22. We **submit** in support of Objective 13.2 - that the use (Commercial forestry) take place in appropriate locations ...and appropriate limits. We generally support the policies set out under Objective 13.2 and in particular we **submit** in support and note with approval policies 13.2.5 (e) and 13.2.5 (h) dealing with set backs and developing standards in the context of Commercial forestry activities.
23. **Chapter 15 Volume 1 - Resource Quality - Soil.** Due to lack of resources and time the KCSRA focus is on soil issues in the context of Commercial forestry operations but we applaud and **submit** in support of those Objectives and Policies that are intended to improve freshwater qualities in the rivers, lakes and wetlands of the wider Marlborough region.
24. We **submit** in support of the matters identified in Issue 15F (some land use activities have the potential to adversely affect soil quality) but are a little puzzled as to why agriculture and forestry are not specifically named as contributing sectors to soil erosion issues in the narrative. We **submit** the narrative re Issue 15F needs to specifically refer, in this context, to Commercial forestry operations in the CEZ. We **submit** in support of Objective 15.4 (to maintain and enhance the quality of the Marlborough soil resource). We **submit** that the last sentence of the narrative needs to be amended so that it specifically refers to limiting soil erosion as well as maintaining and enhancing soil quality.
25. We **submit** in support of policies 15.4.1 to 15.4.5. In particular we note with approval Policies 15.4.2(c) and 15.4.3 (control to take the form of enabling rules) in the context of mitigating the adverse impacts of Commercial forestry operations in the CEZ. We also note that in preparing this submission one of our members with commercial forestry interests noted how competent animal pest control (pigs) on their forest had resulted in noticeably less runoff. This highlights an **omission** in Policy 15.4.5 (control of pests in named areas) . To correct this, we **submit** that the list of named areas in Policy 15.4.5 be extended to cover the hill and high country of the Marlborough Sounds.
26. **Chapter 17 Volume 1 - Transportation:** In general terms Chapter 17 is well and good and worthy of support. However in the context of the focus of this submission, KCSRA **submits** that it fails to adequately recognise and address from a policy perspective the real issues a significant increase in heavy logging truck traffic as a consequence of a significant uplift Commercial forestry harvesting activities is and will continue to have on the fragile road network in the CEZ eg Kenepuru Road.

27. This is unfortunate as KCSRA brought this impending issue to the attention of the Assets and Services department of the Council some time ago. With assistance from KCSRA that department has carried out a long overdue planning exercise for the Kenepuru. Again with support and urging from KCSRA, Council has now put aside funding for one barge site in the Kenepuru. Further, Council is now embroiled in litigation in which a forest owner is opposing any consent requirement to have their logs brought to market by sea.
28. Accordingly, we are disappointed that this work and litigation has not triggered the Council policy department into realising that the MEP should specifically and separately address this issue in the CEZ in Chapter 17. We support Issue 17D in so far as it goes (particular types of land use can have adverse effects on the sustainable use of the land transport network) but it is **submitted** that the MEP needs to more clearly identify the issue and develop the appropriate policy responses for the CEZ in this part of the MEP.
29. Accordingly we **submit** that Chapter 17 of the MEP requires the drafting and insertion of a separate Issue recognising and catering for the impacts of Commercial forestry harvesting on the Sounds road network. In turn, separate policies need to be developed that assist and encourage the obvious alternative (barging) in order to better address this Issue going forward.

Commercial Forestry Activities and Volume 2 - Rules and Standards

30. **Chapter 4 Volume 2 - Coastal Environment Zone:** We **submit** in support that certain rules and standards relating to activities in the CEZ should have immediate effect.
31. **Commercial forestry as a Permitted Activity in the CEZ:** Commercial forestry replanting (i.e planting of another timber production forest following the harvesting of a lawfully established Commercial forest) is said to be a **Permitted Activity**. That is allowed as of right without a resource consent but subject to compliance with certain standards. We are concerned at this approach. The MDC Report rightly identifies that allowing Commercial forestry planting activities in the CEZ has not been a good outcome for the Sounds. There is no rationale as to why the Council policy section has not made Commercial forestry replanting a Discretionary Activity requiring a resource consent.
32. Looking at the MDC Report it seems to KCSRA that the strip 300 m from the high water mark - the edge of the Coastal Marine Zone - is a key target area (**Sensitive Zone**) in terms of improving sustainable environmental outcomes. Replanting activities within that Sensitive Zone should, it is **submitted**, require a resource consent.
33. Accordingly, in order to facilitate replanting outside of the 300 meter Sensitive Zone strip we reluctantly accept and **submit** that 300m away from the Coastal Marine Area Commercial forestry replanting should be a **Permitted Activity**. However, we **submit**, that proposed replanting activities **inside** the Sensitive Zone should fall to be considered as a Discretionary Activity and require a resource consent. Please note this is **not** a prohibition on Commercial forestry replanting in the Sensitive Zone. Just a necessary and prudent regulatory control to permit and require greater oversight from the Council.

34. This change could be simply achieved by amending Rule 4.1.6 to read "*Commercial Forestry replanting more than 300 meters from the Coastal Marine Area*" and we **submit** accordingly.
35. **Standards applying to Permitted Activities - Commercial forestry replanting:** The brief set of standards currently set out at Section 4.3.6 envisages certain setbacks where replanting is not permitted. This reflects the findings of the MDC Report - to a degree. We support and **submit** in favour of the setbacks identified for rivers and wetlands. If our submission as to a restriction on replanting in the Sensitive Zone is accepted, then any setback (no replanting) falls to be considered as a Discretionary Activity. However, if our submission as to a 300m trigger zone is **not** followed, then we **submit** the no planting setback be extended to 50 meters (more than one tree length) rather than the current proposed 30 metres.
36. A further omission in the MEP, we **submit**, is the absence of any requirement that the replanting land owner be required to have prepared by a Registered Forestry Consultant an **establishment plan** (similar in concept to the harvesting plan requirement covered in Volume 3 Appendix 22). This was a very sensible **recommendation** of the MDC Report. We **submit** that section 4.3.6 be amended to make this a requirement (standard) and an Appendix drafted for Volume 3 setting out the detail to be covered in such a mandatory establishment plan. This would, for example, we **submit**, allow and require replanting controls / buffer zones on steep slopes, around gully heads and steep gullies.
37. In light of the MDC Report recommendations Section 4.3.6 of the MEP should also, we **submit**, require a minimum replanting stocking rate of 1000 stems per hectare with no thinning operations permitted until age 7 (such a standard reflects the findings of the MDC Report that the window of vulnerability following replanting is 5 to 8 years). It is **submitted** that a standard requiring that replanting be carried out within 12 months of harvesting as per the MDC Report should also be inserted.
38. **Discretionary Activities in the CEZ and Commercial forestry activities:** Section 4.6.3 and 4.6.4 mean that Commercial forestry planting (as defined) and Commercial forestry harvesting are activities regulated in the CEZ as Discretionary Activities. In other words a resource consent must be applied for and granted. However, there appear to be **no** mandatory standards. The policy rationale seemingly being that it is enough that the application will be considered on a case by case basis against the relevant Objectives and Policies set out in Volume 1 of the MEP (see page 1-2 of Volume 2).
39. We can more or less grasp the pure theory behind this approach but being practical people find this a disturbing and somewhat naive approach in practice. We are well aware of the real pressures that resource consent officers are constantly under from industry to permit their particular application. We are well aware the task of a resource consent officer can be a lonely one. We are well aware of the the flexible approach a hearing panel of Councillors (as opposed to independent Commissioners) may find expedient. We have found no statutory bar to standards being developed for Discretionary Activities.
40. Rather, we **submit** that a set of standards as proposed will provide useful guidance for both future Council officers, hearing panels and applicants alike - thereby providing much cher-

ished certainty and clearly improving the likelihood of good environmental outcomes in the CEZ.

41. Accordingly, we **submit** that a set of express minimum standards for Discretionary Commercial forestry activities be developed and inserted into Chapter 4 of Volume 2 of the MEP.
42. **Discretionary Commercial Forestry activities - replanting and planting - Standards:** It is **submitted** that these standards should be at least the same as those identified and discussed in paragraphs 35 to 37 above of this submission.
43. **Discretionary Commercial Forestry activities - Harvesting Operations:** As noted there appear to be no standards for commercial forestry harvesting activities in the CEZ. We are surprised by this as any lay person can grasp that harvesting and associated activities are the operations most likely to create adverse environmental effects. Indeed, the MDC Report highlights some of these adverse effects in the CEZ. We are not comforted by the suggestion that such resource consent applications will be considered against the high level Objectives and Policies as set out in Volume 1. For clarity and certainty it is **submitted** that a set of minimum standards is required.
44. Appendix 22 of Volume 3 is a potentially useful starting point but needs to better reflect the recommendations of the MDC report. It should also we **submit** be clearly stated as a standard for Discretionary Commercial forestry harvesting activities and one that a Registered Forestry Consultant prepares. However, Appendix 22 needs more thought and drafting to make it a more effective management tool designed to enhance environmental outcomes from harvesting activities. We **submit** that a suitably experienced Registered Forestry Consultant be engaged by Council to redesign this Appendix (and also prepare the proposed establishment plan referred to above). It is **submitted** that more focus should be given on the applicant identifying key erosion prone areas such as gully heads and a clear requirement as to how they will then be protected. A recent (within the last 10 years) aerial photograph should also be included as part of the requirement. It needs to be made clear in the MEP that the sign off confirms that the harvesting plan is compliant with the requirements of all applicable standards. The plan should also confirm how logs will be brought to market and if by road the associated number of anticipated truck movements. It is **submitted** that as a minimum the requirements of Chapter 4.3.8 of Volume 2 should be repeated as part of the applicable standard for Discretionary Commercial forestry harvesting activities in the CEZ.
45. Serious effort, we **submit**, should be given by Council to developing strategic expertise in coupe harvesting analysis and tactical implementation. Allowing whole catchment areas to be logged in one hit is not responsible planning oversight.
46. **Harvesting operations within 50 meters of the Coastline:** A remarkable omission by the drafters of the MEP in so far as it relates to Commercial forestry harvesting is the MEP failure to address the issue of harvesting the current crop of trees within 50 metres of the Coastal Marine Area. This omission is underlined by the fact that there is no such reticence for Woodlot forestry harvesting - at section 4.3.8 of Volume 2 harvesting of these small woodlots is expressly excluded as a permitted activity within 200 meters of the CMA. To be fair, the issue of what to do with this part of the existing crop (there are many examples of Commercial forest being planted within a few metres of the coastline in the Sounds) is not

addressed in the MDC Report. Accordingly it falls to KCSRA to address this obvious and serious omission.

47. We **submit** that a strong case exists for the MEP to make harvesting of Commercial forestry within 50 metres of the CMA a prohibited activity.
48. **Steep Erosion Prone Land:** We **submit** in support of the MEP establishing and identifying Steep Erosion Prone Land. However having identified such areas we are a little bemused at the policy decision to continue a cycle of allowing harvesting and replanting of lawfully established Commercial forestry on such sensitive land. At the very least it begs the question as to what the proposed policy approach to unlawfully established forest on such Steep Erosion Prone Land? How much existing commercial forest is unlawfully established on such land? We will investigate this issue further with Council and thus reserve our position to make further oral submissions as we better understand the seemingly ambiguous and opaque policy approach to this classification.
49. **Open Space Area 3 Zone:** We note our assumption back at paragraph 14 of this submission that this zone was primarily conservation and recreational in intent as opposed to say being available for Commercial forestry activities. This was based on the narrative at page 13-7 of Volume 1 of the MEP (13.M.1). However at writing we took a passing look at chapter 19 of Volume 2 (Open Space Zone 3). The list of permitted activities seem to contemplate something much wider than recreation and conservation use e.g., we note that farming is a Permitted Activity. Further our initial impression is that Commercial forestry is not a prohibited activity and thus we **submit** could it seems be consented by way of a Discretionary Activity application. Unfortunately the pressure of time and resources does not permit a fuller review and accordingly we **reserve** our position to make oral submissions on this aspect.
50. KCSRA would like to have the opportunity to appear and be represented at the MEP hearings.

Yours sincerely


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