

Kenepuru & Central Sounds



Kenepuru & Central Sounds Residents Association Inc.

New MPA Act
Ministry for the Environment
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Dear Sir/Madam

Kenepuru and Central Sounds Residents' Association – Submission on New Marine Protected Areas Act – Marlborough Sounds Recreational Only Finfish Park

Background

1. **Who are we:** The Association was established in 1991, and currently has approximately 200 household members whose residents live fulltime 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.
2. **What we do:** As can be seen from our website (kcsra.org.nz), the Association is very busy representing the interests of members in a wide variety of matters. For example, advocating for better and safer roads and provision of public toilets in places of high use, liaison and representations to the local council, and involvement in local environmental/conservation issues.
3. **Why we are interested:** In the last five or six years members have become increasingly concerned and vocal at the extent of the adverse pressures that are being placed on the marine space in the Marlborough Sounds. Accordingly, the Association sees the introduction of a recreational only finfish park for the Marlborough Sounds as a useful beginning to mitigate these pressures.

Kenepuru & Central Sounds Residents Association Inc.

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Introduction

4. The Association's involvement in what was happening to the Sounds marine space in recent times started at the 2010 AGM when members expressed their frustrations at commercial flatfish fishers sweeping the Kenepuru Sound clean of flatfish, to say nothing of the associated snapper by-catch, on a regular basis. At the direction of the AGM the committee researched how it could go about having the Kenepuru Sound closed to commercial fishing and made strenuous efforts to achieve that but unfortunately were unsuccessful. Accordingly, many of our members were delighted when the National Party gave an election pledge prior to the last election to introduce a recreational only finfish park for the Marlborough Sounds (and the Hauraki Gulf).
5. The Association appreciates that the proposed Sounds recreational only finfish park will not extend to non-fish species such as scallops nor affect existing aquaculture activities. We are comfortable with the specific focus of the proposal as the Association is currently very active in attempting to save the Sounds scallop fishery from commercial over-fishing and will continue its efforts in this respect. The Association is also concerned at the relentless creep of marine aquaculture farming in low flush bays in the Kenepuru and Central Sounds areas and will continue its efforts to have the negative cumulative effects of this activity appropriately mitigated.
6. Our biggest fear has been that the Consultation Document was merely a way of being seen to do something to honour the election pledge without really tackling the difficult task of actually implementing a recreational only finfish park for the Marlborough Sounds. However we have been reassured by the vigorous and energetic stance taken by the Minister for the Environment at public meetings in terms of his commitment to achieving a recreational only finfish park for the Marlborough Sounds. We **strongly support** this endeavour. We urge the affected Ministers and their officials to get on with the task of producing the legislation for the next round of review, consultation and discussion.

Structure of this Submission

7. The focus of our submission is to express our support and provide comments on the Consultation Document as it relates to the proposed Marlborough Sounds recreational only finfish park. Accordingly, we firstly deal with those questions set out in Section 5 of the Consultation Document. By way of a Schedule, we then deal with the other questions raised in the Consultation Document in sequential order.

Section Five – Marlborough Sounds Recreational Only Finfish Park

8. **Question 17:** The Association **submits in support** of the proposal for a recreational only finfish park for the Marlborough Sounds. The reasons for our

support are set out in paragraphs 1-7 above and elsewhere in this submission. The Association looks forward to the receipt of the detail of the proposal as soon as possible.

9. **Question 18:** The Association supports **and submits** that as a minimum the boundary lines of the proposed Marlborough Sounds recreational only finfish park be the existing blue cod management area as set out in map 2 of the Consultation Document. The Association appreciates that the suggested boundaries may be pragmatic from an administrative and management viewpoint. However, the Consultation Document is a little light on the “why” of the choice of boundaries. Accordingly, the Association **submits** that serious consideration be given to **also including** the popular recreational area to the immediate west of D’Urville, the Port Underwood area and the area known as the Croiselles Harbour and associated inlet areas eg Okiwi Bay, Squally Cove. We **also submit** that whilst these areas may have been appropriately left out of the blue cod management area, they are important recreational fishing areas for a variety of other species and should be included in the park.
10. **Question 19:** The Association does not support and **submits against** allowing any commercial finfish fishing in the park.
11. **Question 20- Compensation:** We **submit** that the proposal to compensate holders of quota shares as a result of the implementation of the Marlborough Sounds recreational only finfish park is very generous. The Association’s notes its assumption that the quota shares behind the generation of ACE for current commercial fishing activities in the Sounds will be taken out of circulation to stop the level of commercial fishing that would have taken place inside the park merely transferring to outside of the park.
12. **Question 21 – Management of the Park:** This is a very important question and one that needs to be further teased out when the draft legislation is on the table. However, in order to assist, **we submit** that the Government must be clear as to its funding and supporting any such management/advisory group and the range of activities that will be undertaken by that group.
13. The Consultation Document states that the lead Government agency responsible for the fishing park will be the Ministry for Primary Industries (**MPI**). This at first seems a little incongruous, as there is no primary (finfish) industry per se in a recreational only finfish park. However, we accept and acknowledge that as a result of past restructuring, this Ministry holds the bulk of responsibilities/competencies for fishing matters. The Association has also been working with various sections of this Ministry on matters such as retention of the Sounds scallop fishery. We are generally pleased with their professionalism and specialised competencies in the marine space. On that basis, the Association agrees MPI should provide the secretariat support to any management/advisory group. The Government also needs to be aware that it cannot continually expect representatives from voluntary stakeholder groups such as the Association to participate without some form of monetary (modest) recognition and assistance with reasonable disbursements from Government.

14. In terms of what a management/advisory group might do, this also needs to be teased out by way of a comprehensive set of terms of reference. As we see it, such a group's brief might include input into any baseline ecological survey to be carried out as to the state of the fishery in the park at its commencement; on going assessments and surveys as to the health of the fishery in the park; on going recommendations and suggestions as to recreational fishing activities e.g. bag limits, season restrictions, methods; participating in any periodic review of any aspect of the park; and perhaps being a focal point for the generation of recommendations to the appropriate Minister concerning the creation of other categories of marine protected areas eg seabed reserves in the park area.
15. In terms of the individuals making up such a management/advisory group, we agree with the Consultation Document that they will need to be representative of the relevant stakeholders including Iwi. In passing, we do not see this as, and **submit against**, including commercial finfish representatives. After all it is a recreational only finfish park. The Association looks forward to assisting with nominations of suitable individuals to the management/advisory group.
16. **Question 22:** Clearly there needs to be a careful and thorough ecological review of the fishery at the inception of the recreational only finfish park. In terms of on going monitoring, clearly the management/advisory group will be an important component of the generation of regular ecological surveys. We **submit** that fuller periodic reviews be carried out at 10-yearly intervals.

Conclusion

17. The Association is well aware that the Consultation Document represents only the first (albeit significant) step in moving to a recreational only finfish park for the Marlborough Sounds. We look forward to the circulation of draft legislation for review, consultation and comment and urge the affected Ministers and their officials to progress on an urgent basis this long-overdue initiative.
18. Representatives of the Association's Committee would be pleased to meet with the affected Ministers and their officials to discuss this initiative further should that be of assistance.

Yours sincerely

Ross Withell 

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cc to the Minister for Primary Industries, the Minister for the Environment, the Minister of Conservation and Stuart Smith MP

Schedule of Responses to Questions 1-16 and 23-28 of the Consultation Document – A New Marine Protected Areas Act (MPA Act)

Section 2 – The need for a new approach to Marine Protection

1. **Question 1:** The Consultation Document highlights the fragmented and complex nature of the current legislative framework whereby marine protected areas are currently proposed/created. The Association supports the retention of existing marine reserves and a new MPA Act as mooted by the Consultation Document.
2. **Question 2:** The Association **submits** that on going Government funding and support (both secretarial and scientific) of the management/advisory group for the Marlborough Sounds recreational only finfish park is essential.
3. **Question 3:** No comment.

Section 3 –The Proposal as to a new approach to Marine Protection

4. **Question 4:** The Association **strongly supports** the creation of a statutory protected recreational only finfish park for the Marlborough Sounds (and has no opposition to one for the Hauraki Gulf). The Association is pleased that the Consultation Document clearly records that there are real economic benefits and growth from the creation of marine protected areas that outweigh the loss of commercial fishing opportunities. This is the context in which we read and support the reference in objective 2 to “economic growth”. **The Association submits** that the supporting legislation needs to make this interpretation of economic growth clear.
5. **Question 5 – Objectives of the MPA Act:** An additional objective along the following lines needs to be added - *“The regular generation and public circulation of properly resourced objective and independent scientific research and study as to the operation and ecological effects of marine protected areas”*.
6. **Question 6 – Categories of MPA’s:** Subject to our response to questions 4 and 5 above, we concur.
7. **Question 7:** We **support** the introduction of a recreational only finfish park in the Marlborough Sounds. The Association **submits** that this will assist by providing some immediate relief to this beleaguered fishery and longer-term assist in the recovery of finfish stocks. In time having a more focussed and sustainable orientated management of the Sounds park area will help this fishery to regain its former status as a diverse and healthy one. For sake of clarity the Association also **submits** that the legislation creating the Sounds park needs to be clear that the existence of the park is not of itself a barrier to the possible future creation of other types of marine protected areas within the park under the MPA Act.
8. **Question 8:** The retirement of the appropriate number of quota shares

representing the commercial take from the Sounds reflects, in our view, the way the commercial fishing sector now operates (see also our response to Question 20 in the body of this submission).

9. **Question 9 - Petroleum and Mineral Mining Issues:** It is fair to say that the thought of large-scale petroleum or seabed mining in the Sounds fills us with alarm. However, the Association prefers to wait to see the detail of an actual proposal before commenting further.
10. **Question 10:** No comment.
11. **Question 11:** See our response to questions 4 and 5.

Section 4 – How the Process will Work

12. **Question 12 – Options to Create an MPA:** The Association is comfortable with the way the proposal for a recreational only finfish park in the Marlborough Sounds has come about and is being progressed. In terms of the mooted of additional marine protected areas in the Sounds recreational only finfish park area see our earlier comments as to the possibility of the management/advisory group fulfilling that role.
13. For the future establishment of additional marine protected areas elsewhere in New Zealand, the proposed collaborative option outlined in the Consultation Document seems all very well in theory. However, the Consultation Document seems, to us, a little vague as to exactly who suggests to a Minister that that Minister should initiate a marine protected area proposal such as a new recreational fish park. We have assumed that once that threshold has been crossed, the Government (the appropriate Minister with the assistance of his or her officials) funds and leads the consultation, further information gathering, the public consultation, the preparation and funding of an independent economic assessment and so on. If the Association has this wrong and the collaborative option relies on the community to undertake such a work programme then clearly this option presents a very high if not impossible barrier to entry.
14. In terms of the Board of Inquiry option, section 4 of the Consultation Document seems to suggest that before a Board of Inquiry can be appointed, the collaborative process must have failed. If our interpretation is correct, this seems a rather long-winded way to access this process. Accordingly for the purposes of clarity the Association **submits** it should be available to the Minister to initiate this option instead of first going through a collaborative process. This seems to better align with the Consultation Document's comments as to this being an option if parties' views "are or are likely to be too divergent". Sadly we suspect this will often be the case.
15. **Question 13:** See our answer to question 12.
16. **Question 14:** See our response to question 12.

17. **Question 15 – Review Arrangements:** The Association is uncomfortable with the suggestion that a marine protected area status could be revoked even with the caveat that “exceptional circumstances” would have to be demonstrated. Unfortunately, the Consultation Document did not give any guidance as to what might constitute “exceptional circumstances”. By way of discussion the Association suggests it seems counter intuitive to facilitate a situation where, say, excessive unsustainable commercial exploitation of a fishery has led to the introduction of a marine protected area which in due course has created or restored a healthy fishery to the extent that commercial access to that restored fishery would then be granted by removing its marine protected area status. Before the Association comments further, we would like to see what is proposed by “exceptional circumstances”.
18. **Question 16 – Treaty Matters:** In the context of facilitating the creation of marine protected areas the Association sees the potential for significant adverse tension between the kaitiaki role of Iwi/Maori and the understandable desire of Iwi/Maori to make a commercial return on an investment or asset such as quota shares. By way of example we note that the proposal for a recreational only finfish park in the Marlborough Sounds and Hauraki Gulf immediately generated some strong media criticism and opposition from purported Iwi/Maori representatives. Whilst the Association appreciates that this might just be a hard nosed negotiating ploy, the Association **submits** and urges the Crown representatives in their discussions/consultation with its Treaty partner over these two park proposals to keep firmly in mind that this is a situation where the over-arching kawanatanga or wider public good governance role of the Crown carries real weight and responsibilities which we would hope will be properly discharged.
19. In passing, the Association submits it would have been useful if the Consultation Document had supplied more hard data on the extent and number of existing taipure and mataitai reserves. It would have also been useful to know the prevalence and extent of the issuance of customary fishing permits in the proposed two parks. This is particularly relevant given the Association’s recent difficulty in seeking to obtain under the Official Information Act details as to the issuance of a customary permit to a commercial boat and crew for scallop fishing in the Marlborough Sounds.

Section 5 – Recreational Only Finfish Park in the Marlborough Sounds

20. **Question 17:** The Association **supports** the establishment of a recreational only finfish park in the Marlborough Sounds. See paragraphs 8 to 16 of the body of this submission for answers to the questions raised in this section of the Consultation Document.
21. **Question 18:** See above.
22. **Question 19:** See above.
23. **Question 20:** See above.

24. **Question 21:** See above

25. **Question 22:** See above.

Section 6 - Implementation

26. **Question 23 – Existing Marine Management Areas:** As the Association understands it, existing marine management areas currently managed as marine reserves or as species-specific sanctuaries will transition into the proposed MPA Act without change. The Association **is comfortable** with this on the basis of such assurance. In terms of specific seabed reserves, in the context of the Marlborough Sounds recreational only finfish park, it is unfortunate that the Consultation Document does not identify whether or not any such areas already exist. Nonetheless as a starting point the Association **submits** that these areas should be identified so further consideration can be given as to whether they transition into the MPA Act or continue to be managed under the Fisheries Act. The Consultation Document is also unclear as to where /how the area around Maud Island is to be treated **and submits** the treatment of this and any other similar areas in the Sounds should /will be treated be clarified. The Association **supports** the Consultation Document's proposal to transition existing recreational fish areas (there appears to be two only) into the new MPA Act as recreational only fishing areas.

27. Unfortunately in the Association's view, this section of the Consultation Document is unclear as to what happens to existing customary management areas –identified as being certain community forum based areas and as taipure/mataitai reserves. The establishment of such areas will not have been easy and accordingly as a matter of equity and fairness, the Association supports and **submits** for the continued existence of such areas. However, it would have been useful for the Consultation Document to have provided hard data as to the extent and number of such customary management areas - particularly in relation to the Marlborough Sounds recreational only finfish park.

28. **Question 24:** See our response to question 23.

29. **Question 25:** See our response to questions 23 and 24.

30. **Question 26 – Management - Community Involvement:** The Association looks forward to the creation of a Sounds wide recreational only finfish park. The management structure by which community input would be facilitated via a management/advisory group comprised of suitably qualified community representatives seems appropriate. The Association reiterates our earlier submissions as to the need for a commitment from Government as to on going support and funding of that group. The Association is willing to assist in providing nominations for the appointment of suitable representatives to that group.

31. **Question 27 – Management - Iwi/Maori Involvement:** In order for Iwi /Maori

to monitor their interest in customary access to fisheries within the Marlborough Sounds recreational only finfish park, spiritual practices in relation to that fishery and last but not least access to recreational fishing in the Sounds park it seems appropriate that representatives of Iwi/Maori be at least offered representation on the management/advisory group. The Association appreciates that Iwi/Maori may see this as supplemental to, as opposed to replacing, existing avenues of discussion with its Treaty partner on matters concerning or relating to any such parks.

32. **Question 28 – Management of Commercial Tourism in Marine reserves:** The Association notes that the Consultation Document does not give examples of what the expected range of such activities might be. That aside, the Association's understanding is that the land based concession system has apparently worked well and, subject to the detail, this model could well be suitable for giving commercial tourism operators appropriately managed access to marine reserves.