

# Kenepuru & Central Sounds



Kenepuru & Central Sounds Residents Association Inc.

Manager, Resource Consents  
Marlborough District Council  
PO Box 443  
Blenheim 7240

**Email: [mdc@marlborough.govt.nz](mailto:mdc@marlborough.govt.nz)**

*Ross Withell*

*President KCSRA*

*2725 Kenepuru Road*

*RD 2*

*Picton 7282*

*email: [president@kcsra.org.nz](mailto:president@kcsra.org.nz)*

*WWW: [kcsra.org.nz](http://kcsra.org.nz)*

10 May 2017

Dear Sir/Madam

**Kenepuru and Central Sounds Residents' Association -  
Submission on Resource Consent Application U161142  
- Marlborough Aquaculture Ltd - Blowhole Point**

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

## 1. Introduction

- 1.1 The Association was established in 1991 and has more than 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.
- 1.2 The Association has built up a knowledge and understanding of issues concerning the sustainability of marine farming in the Sounds initially through our substantive involvement with the King Salmon Board of Inquiry. In recent times the Association has successfully supplemented member presentations by using professional assistance to submit in opposition to resource consent applications for mussel farms not meeting specified criteria.  
As a result of these successful submissions the Association has also successfully participated in subsequent Environment Court hearings following appeals by unsuccessful applicants against the decisions of independent commissioners.
- 1.3 The Association submits in opposition to the grant of a resource consent for a 10-hectare mussel farm as sought by this application.

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### Kenepuru & Central Sounds Residents Association Inc.

President	Ross Withell
Vice President	Andrew Caddie
Secretary	
Treasurer	Stefan Schulz
Chairman Roding Committee	Robin Bowron

<a href="mailto:president@kcsra.org.nz">president@kcsra.org.nz</a>
<a href="mailto:vicepresident@kcsra.org.nz">vicepresident@kcsra.org.nz</a>
<a href="mailto:secretary@kcsra.org.nz">secretary@kcsra.org.nz</a>
<a href="mailto:treasurer@kcsra.org.nz">treasurer@kcsra.org.nz</a>
<a href="mailto:roding@kcsra.org.nz">roding@kcsra.org.nz</a>

## 2. **Competing Claims or just Claim Jumping?**

- 2.1 The Association has been very engaged with the MPI proposal for 5 new salmon farms in the Pelorus Sound area.
- 2.2 Accordingly, it took a little time to realize that this application represented something of a disputed claim argument related to one of the MPI salmon farms and that the previously notified consent application UI70048 for a mussel farm (**King Salmon application**) is over the same area as this application. After enquiries we can confirm that the area in this application, the King Salmon application and one of the proposed MPI salmon farms overlap to a significant degree.
- 2.3 Originally the Association was advised by the Council to ignore the MPI proposal – as if it does not exist. **Not a satisfactory** way to approach real life issues. That approach is further compromised by this application. Just how is the community, with legitimate interests in the well being of the Sounds and scientifically based views as to the harmful adverse effects of ongoing mussel farm sprawl, supposed to un-tease this particular knot?

## 3. **Abuse of Process at Community expense**

- 3.1 The Association would like to know just exactly how the Council as the regulator and decision maker is intending to hear these competing applications?
- 3.2 We ask this because the association has real concerns that the community will be put to a whole lot of needless time and expense over these competing mussel farm applications.
- 3.3 Is the Council seriously expecting an under funded community organization like the Association to engage legal and expert advice for two sets of hearings over essentially the same space? If so **we submit** this would represent an unreasonable and unfair barrier to the participation of the legitimate public interest.
- 3.4 The Association **submits** that this is a very reasonable question **which natural justice** requires the Council to publicly and promptly answer. When will this happen?
- 3.4 We urge the Council as decision maker to **exercise leadership** on this matter. By way of example only, and in order to assist Council's thinking process's, Council could put this application and the King Salmon application on "ice" until the whole MPI saga plays out and/or any judicial challenges from King Salmon and/or the applicant is dealt with.
- 3.5 We reiterate our view that it is outrageous to put community organizations to the time, effort and expense of meaningfully researching and reviewing an application and then finding this sort of Machiavellian manoeuvring is the real reason for the application. It **is submitted** that seems an abuse of process with the joke on the community and Council.

## 4. **Decline application**

- 4.1 The applicant states that this application has a non-complying status.
- 4.2 After careful review of the application and related matters the Association believes the applicant **has not met the test** that the effects of its application be less than minor and not contrary to the objectives and policies of the Marlborough Sounds Resource Management Plan ('MSRMP') nor the proposed Marlborough Environment Plan

(‘MEP’). Rather we see a number of serious and significant adverse effects and policy breaches.

4.3 Accordingly the Association **submits** that the application **be declined**.

## 5. Request to Appear

5.1 For the record we repeat our concerns about the unfair disadvantage the Association (and any other submitters in opposition to these applications) would suffer if the hearing process is duplicated. However, for forms sake, the Association confirms that it would like to present/talk to this submission at the public hearing and will be represented.

## 6. Discussion

6.1 In order to conserve our resources and given the fact that essentially this application covers the same area as the King Salmon application (albeit three hectares bigger) we point the Council to the our submission on the King Salmon application and reiterate the basis of our view as why the King Salmon application be rejected as being equally applicable to this application. The difference being the likely significant adverse ecological effects for example will be up to 50% higher given the larger size of this proposed farm.

6.2 In order to assist **we attach** (see Appendix One) a copy of the Associations submission in opposition to the King Salmon application and note that the matters set out therein apply, *mutatis mutandis*, to this application.

Yours faithfully

Ross Withell



President

Kenepuru and Central Sounds Residents’ Association

c/- 2725 Kenepuru Road, RD 2, Picton 7282

Email [president@kcsra.org.nz](mailto:president@kcsra.org.nz)

cc

*Attn. Mr D. J. Clark*

*PO Box 138*

*Blenheim 7240*

Email: [david@wmp.co.nz](mailto:david@wmp.co.nz)

## **Appendix One**

Attached is a copy of KCSRA Submission on overlapping application U170048 from NZKS attached. See paragraph 6 of the body of this submission (U161142)

# Kenepuru & Central Sounds



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Manager, Resource Consents  
**Marlborough District Council**

PO Box 443  
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*Ross Withell*

*President KCSRA*

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*RD 2*

*Picton 7282*

*email: [president@kcsra.org.nz](mailto:president@kcsra.org.nz)*

*WWW: [kcsra.org.nz](http://kcsra.org.nz)*

7 April 2017

Dear Sir/Madam

**Kenepuru and Central Sounds Residents' Association -  
Submission on Resource Consent Application U170048  
- NZ King Salmon - Blowhole Point**

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 has more than 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.

1.2 The Association has built up a knowledge and understanding of issues concerning the sustainability of marine farming in the Sounds initially through our substantive involvement with the King Salmon Board of Inquiry. In recent times the Association has successfully supplemented member presentations by using professional assistance to submit in opposition to resource consent applications for mussel farms not meeting specified criteria.

As a result of these successful submissions the Association has also successfully participated in subsequent Environment Court hearings following appeals by

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<a href="mailto:secretary@kcsra.org.nz">secretary@kcsra.org.nz</a>
<a href="mailto:treasurer@kcsra.org.nz">treasurer@kcsra.org.nz</a>
<a href="mailto:roading@kcsra.org.nz">roading@kcsra.org.nz</a>

unsuccessful applicants against the decisions of independent commissioners.

- 1.3 The Association has been very engaged with the MPI proposal for 5 new salmon farms in the Pelorus Sound area. Accordingly we have only recently turned our mind to this application. In the course of preparing this submission it slowly dawned that this application represented something of a disputed claim argument related to the MPI salmon farms. After enquiries we were quite shocked to learn that the area in this application and one of the MPI salmon farms overlap.
- 1.4 We have been advised by MDC to ignore the MPI proposal – as if it does not exist. **Not a satisfactory** way to approach a real life issue. We urge the decision maker and/or MDC to put this application on “ice” until the whole MPI saga plays out and/or any judicial challenges from the “resident” mussel farmer is dealt with. It is outrageous to put community organizations to the time, effort and expense of meaningfully researching and reviewing an application and them finding this sort of Machiavellian manoeuvring is the real reason for the application. It seems an abuse of process.
- 1.5 Nevertheless, and with real concern, we see no alternative but approach the balance of this submission on the basis the proposed MPI salmon farm is not “in fact” an agenda item given this application is both real and inappropriate and needs to be dealt with.

## 2. **Decline application**

- 2.1 The applicant states that this application has a non-complying status.
- 2.2 After careful review of the application and related matters the Association believes the applicant **has not met the test** that the effects of its application be less than minor and not contrary to the objectives and policies of the Marlborough Sounds Resource Management Plan (‘MSRMP’) nor the proposed Marlborough Environment Plan (‘MEP’). Rather we see a number of serious and significant adverse effects and policy breaches.
- 2.3 Accordingly the Association submits that the application **be declined**.

## 3. **Request to Appear**

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

## 4. **Discussion**

- 4.1 **Landscape and Natural Character Considerations:**The recently notified MEP makes it clear that this area including the area of the proposed farm site falls into an area of Outstanding Natural Character (ONL). The Applicant agrees.
- 4.2 The Association **submits** that the addition of this proposed large farm butting up against and along side the existing farm will present an extensive and ugly solid bloc of intrusive mussel farm structures such as buoys and flashing lights that will have a more than minor adverse effect on Landscape and Natural Character values. Further, the proposed farm sits within an important gateway area to this part of the Sounds. If the proposal proceeds the combined area of mussel farms will more than double (to over 10 hectares) and the passerby will be presented with a solid bloc of mussel farm. In this regard we also understand that the resident mussel farmer may also be making an application for

another very large farm and, **we submit**, this should also be factored in as being part of the impacts on the receiving environment.

- 4.3 The Association **submits** that it is well settled law that a decision maker must have regard to a notified plan. Further, the well known Supreme court case (*EDS v New Zealand King Salmon*) requires that the New Zealand Coastal Policy Statement ( 2010) – “**NZCPS**” must be given effect to. The Association **submits** that the proposed farm fails the requirements of Policy 13. Given the proposed farm’s proximity to prominent natural scenic features such as headlands and reef structures the Association submits the proposal also breaches Policy 15 of the NZCPS. The relatively recent Environment Court Case (*RJ Davidson Family Trust v MDC*) clarifies and reinforces the importance and application of the NZCPS to an application for a resource consent and where and how Part 2 of the RMA matters sit.
- 4.4 **King Shag:** The King Shag is an endangered and/or vulnerable species depending on which classification one is looking at. Either way this magnificent species is at severe risk. The applicant has dealt with the more than minor adverse impacts of this proposal on this endangered species in a passing and cursory way. The *RJ Davidson v MDC* case has **we submit** underlined the importance of taking steps to limit the ongoing loss of habitat that the likes of this application pose to the King Shag.
- 4.5 The Association has worked closely with various local groups on marine matters and in particular Friends of the Nelson Haven and Tasman Bay (**Friends**). One of their members is the avian expert Mr R Schuckard who has significant expert knowledge of the adverse impacts of proposals such as this on the King Shag. Friends are, we have been advised, submitting in opposition on this application with an extended submission on the adverse impacts of this proposal on the King Shag. The Association both supports and commends that submission to the decision maker(s).
- 4.6 **Benthic and Ecological considerations:** The applicant’s AAE concedes that the proposed site sits in an area of relatively abundant Infaunal and Epifaunal diversity. The applicant then ignores the well known significant adverse effects of large mussel farms on such benthic habitat. For example the reduction of biodiversity and the proliferation of opportunistic predator species such as the 11 armed starfish (*cosinasterias muricata*). Some studies<sup>1</sup> have reported up **to 39 times** the numbers of these creatures under or in the proximity of mussel farms compared to similar areas without mussel farms. The adverse impacts of these predators on other currently resident bivalve shellfish, such as the nearby scallop populations passingly referred to by the applicant, could be dramatic.
- 4.7 The applicant notes the relative proximity of an important reef habitat and suggests that all being well mussel farm discharges should not, strong currents notwithstanding, adversely impact on this important fish habitat. The application is, it is submitted, deficient in that it makes no attempt to assist the decision maker by giving an indication of the likely volume of this discharge.
- 4.8 **We submit** that independent studies have shown that the levels of discharge from mussel farms in the Sounds are in the order of up to 400 tonnes per hectare per annum<sup>2</sup> – certainly very significant in the context of an additional 7 hectare proposal and not something to be airily dismissed as the applicant, **we submit**, suggests. Further, the applicant has not attempted to explain the likely adverse effects of such discharges on aquatic life. There is also the likely adverse cumulative effects from the increased

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1 Inglis and Gust 2013 Potential Indirect effects of shell fish culture on the reproductive success of benthic predators. Journal of applied Ecology 2003, 40 1077 – 1089.

2 Hartstein ( 2005) Acoustical and Sedimentological Characterization of Substrates Deposition in and around sheltered and open-ocean mussel Aquaculture sites - Journal of Ocean Engineering Vol 30, No 1 Jan 2005 and Hartstein and Stevens (2005) Depositions beneath longline mussel farms. Aquaculture Engineering 33:192-213

intensity of farming in the general area if this proposal proceeds. The applicants approach in this area is, it **is submitted**, unconvincing and we urge the decision maker to take a precautionary approach and protect this important, for biodiversity, and relatively scare habitat.

- 4.9 **Recreational Matters:** The applicant proffers no evidence as to the assertion that a mussel farm of this size, nature and location will improve recreational fishing. The Association strongly rejects that assertion and is amazed that the applicant seriously believes that this large farm will actually enhance recreational fishing. At best the farm will adversely hinder recreational boating activity. It will also fundamentally alter the ecological qualities of the seabed and water-column in the immediate area and displace common recreational fish species such as blue cod.
- 4.10 **Strategic Value to NZKS:** The applicant acknowledges that this activity is not core business and indeed media reports suggest that there is little economic return to them in terms of the mussel brands referred too in the application. We wish to bring to the decision makers attention that there are 100's of hectares of consented mussel farm space in the Sounds area without a line in the water. Further, MPI has also allocated a new and giant aquaculture marine area in Tasman Bay (over 1500 hectares) much of which is targeted for mussels. Thus, it **is submitted**, there are no pressing economic drivers to significantly and adversely devalue the outstanding landscape and natural character values of this area or permit the adverse impacts on ecological values - as there is plenty of consented empty space and product available in substitution for this egregious application.
- 4.11 On the face it there seems no obvious business rational for this proposal from King Salmon which led the Association to have real concerns as to what was going on. As per paragraph 1.3 above we subsequently found out. In reality, this application merely represents a "play" by NZKS to protect the MPI targeted space from a prior claim from another mussel farmer. Another reason, **we submit**, that the application be declined.

Yours faithfully

  
Ross Withell

President  
Kenepuru and Central Sounds Residents' Association  
c/- 2725 Kenepuru Road, RD 2, Picton 7282  
Email [president@kcsra.org.nz](mailto:president@kcsra.org.nz)

cc

*Attn. Mr Q. Davies*  
*Gascoigne Wicks*  
*PO Box 2*  
*Blenheim 7240*

Email: [qdavies@gwlaw.co.nz](mailto:qdavies@gwlaw.co.nz)