

FRIENDS OF NELSON HAVEN & TASMAN BAY INC.

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Annual General Meeting will be on Wednesday August 28 at 5:30 pm at 29 Bronte Street

ANNUAL REPORT JULY 2018 - JUNE 2019

Our Society ("Friends") is a long-standing, voluntary organisation located in the top of the South Island whose aim is to care for and protect the coastal marine environment for future generations. We are founded upon the principle that unless citizens take an active role in assessing proposals to exploit the environment (in particular public space areas) for commercial or personal gain then that environmental care and protection will be seen as a very secondary consideration. Our continued work at Local Government, Environment Court, High Court and Court of Appeal level is often challenging but as Mark Twain said "All you need in this life is ignorance and confidence, and then success is sure".

First, the good news. Friends was nominated by the Kenepuru and Central Sounds Residents Association (KCSRA) for a Cawthron-Marlborough Environment Award, Marine section. Other entries for the Marine Section were the Marine Farming Association, New Zealand King Salmon and Marlborough Girls College Marine team. The Award went to the Marlborough Girls College Marine Team. They envisaged that ecosystem resilience should be significantly strengthened, and a sustained increase in the abundance and diversity of marine life should be achieved through marine protection. They hope to achieve this by establishing a Marine Guardians model which would:

- work in an inclusive and collaborative manner to ensure that marine life recovers and flourishes for future generations to enjoy.
- have the authority to implement measures to assist in the preservation, protection, and sustainable management of the marine environment and biological diversity.
- make regulations to administer marine protection. For example, one part of the Sounds may have different regulations depending on issues and values at the time. This makes it more flexible to changing ecological conditions than current statutory tools.
- enable long-term scientific monitoring and research should be a feedback to inform effectiveness of regulations and ecological understanding.
- facilitate and promote co-operation between the Guardians and management agencies, to assist in achieving the integrated management of the Sounds.

Friends wish them well with lobbying and meeting with Marlborough Council, the Minister for Conservation and the Prime Minister. We applaud these young people who are showing environmental concern in the Top of the South; it is their future.

As a committee, we are small in number. For a significant number of years there have been few new people or additional support for the work that is required. The intergenerational loss of our living world and its diversity, is a source of divisiveness, a new tragedy of the commons. Some perceive the loss of biodiversity and its supporting environments as

'Landscape Pain' while others continue to increase the use of resources in times of steep biodiversity decline. Words like "naturalness, coherence, visual amenity and iconic" were used to communicate qualities central to the landscapes to which they were applied. Now these words epitomise what has been lost, reflecting the scarcity of what remains.

We need more people on the Committee and hope that anyone reading this will be encouraged or will encourage someone they know to join. In particular, we need to work at increasing visibility and membership.

We agree that the youngest generation of humanity together with many species face a bleak future. There are many more concerned individuals among us who share the concerns that many of today's activities are destructive. However, the relentlessness of lobbying and propaganda by some applicants applying for resource consent has been extremely effective. And so, we often find ourselves, herded into strictly limited spectrums of debate and opinion, while the environment we hold so dear, is dismantled around us. We strongly encourage people to help us with our work.

A. Research Reports Updates (the reports are on our website www.nelsonhaven.org.nz)

1. Knowledge about the sea mammal and seabird distribution along Tasman and Golden Bay was very limited. From 2011 to 2017 we carried out a number of boat surveys to establish baselines for biodiversity. A number of reports have been published and remaining data are to be published as soon as time is available. We also hope to continue this project in the future.

2. The King Shag studies continue. Committee member Rob Schuckard is a member of the King Shag Working Group. This group is a collaborative approach by Marine Farming Association, Department of Conservation (DoC), New Zealand King Salmon (NZKS), Marlborough District Council (MDC), Sanford, Ministry of Primary Industries (MPI), NIWA, Forestry, Friends of Nelson Haven, and Iwi to create a funding base for more scientific studies around knowledge gaps on this endemic species. Friends has funding to pay for additional studies. One of the topics we hope to fund is further studies on the prey species of this seabird.

B. Marlborough District Council (MDC) area

1. MDC's Environmental Plan (MEP). Friends made extensive oral and written submissions in support of their submission to the Plan. Hearings have passed and the outcome of the submission process on the original MEP is expected at the end of the year.

2. ENV-2016-CHC-40 and 41, [2018] NZEnvC 88. Clearwater Mussels. Most of the Port Gore, including Pig Bay area is prohibited for aquaculture in the Marlborough Resource Management Plan. Pre-dating the plan, a number of farms were already established and they were allowed to stay active over the duration of their consent. Recently a number of the licences for these farms expired and the sites should have been abandoned in accordance with the Plan. Clearwater Mussels became the new 'owner' of these expired consents with the aim to continue marine farming in the prohibited zone of the Marlborough Sounds. In collaboration with Environmental Defence Society and a local family from Pig Bay, Friends challenged this application for a consent in the Environment Court. A

positive decision in favour of Friends from the Environment Court was again challenged in the High Court by the Applicant and the decision went in our favour. Some comments from the High Court include the following:

[145] I am of the view that the Environment Court did not err in reaching its conclusion that it “overwhelmingly” found that the appropriate outcome was to decline the appeals. Most importantly, the court accepted (as did all participating parties) that the Important Bird Areas as promoted by Royal Forest and Bird Protection Society of New Zealand¹. (F&B) are an appropriate tool in planning matters to protect threatened species.

[20] The Court noted that the relevant sites in Pig Bay were within the ‘Sounds Important Bird Area’, as designated in maps published by F& B. This ‘Important Bird Area’ designation indicated a seabird area of global significance. The Court noted that significant numbers of King Shag fed within the Sounds but its marine habitat was largely unprotected.

[21] The Court found that the ‘Important Bird Area’ mapping was of significant weight. It signalled areas of importance for the survival of the bird species in light of the protection priorities set out under s 6 of the Act and the Coastal Policy Statement and the Sounds Plan.

The relevant provisions of s 6 at issue are Matters of National Importance. Friends is proud to have participated in this case and is delighted with the outcome.

3. ENV-2017-CHC-17 and ENV-2017-CHC-18 – Treble Tree Holding has, since its original experimental consent in 1996, tried to transform the experimental farms into a full-scale mussel farm. Friends joined at a later stage and lead the opposition to get these farms turned down based on King Shag feeding habitat and landscape assessments. Legal counsel of Friends questioned the status of the whole application because all consents had lapsed. Department of Conservation joined as an S.274 party and consents were declined in a Pre-Environmental Court Hearing. All three previously consented areas have now been decommissioned.

4. CA97/2017 [2018] NZCA 316, CIV-2016-406-14 [2017] NZHC 52. – R.J.Davidson Family Trust v Marlborough District Council. This application to add another farm to the already very developed Beatrix Bay. Concerns were raised about the King Shags from Duffers Reef feeding in Beatrix Bay. The application was declined by the commissioner, despite MDC planner’s advice to grant consent. Together with the Kenepuru Central Sounds Residents Association, Friends joined the appeal against the applicant in the Environment Court, the High Court and the Court of Appeal. The High Court upheld a finding by the Environment Court that the reasoning in King Salmon applied to the determination of resource consents under s 104(1) because the relevant provisions of the planning documents (including the NZCPS) already gave substance to the principles in part 2 of the RMA. This technical RMA decision survived all the way to the Court of Appeal.

¹ Gaskin, Ch. 2014. Important Areas for New Zealand Birds. Report prepared for Forest and Bird.

King Shag played a very important role in the decision of the Environment Court decision not to allow the appeal to be granted: 'A presumably stable condition of a threatened species is no reason for comfort, however, when a taxon is reduced to less than 1,000 individuals on the planet, because of the risk of stochastic events, waiting for a reduction in population is no longer regarded as an appropriate trigger for protecting the taxon.' (R.J.Davidson Trust v Marlborough District Council [2016] NZEnvC 81[285]) The High Court and Court of Appeal did not agree with the appellant's arguments and the appeal was dismissed.

5. We are following all the proposed developments from New Zealand King Salmon (NZKS) with great interest. It may be noted that after the expansion of their production as a result of the Board of Inquiry, NZKS is now producing about 8000 tonnes of salmon with about 20,000 tonnes of feed. Before their expansion, in 2012 they produced about the same amount of salmon with 15,000 tonnes.

Relocation: We argue that the relocation process will not result in 'improved environmental outcomes' for the benthic and wider marine environment of the Marlborough Sounds. To the contrary, the Advisory Panel that was installed to deal with Low Flow Farm Relocation did not recommend the biggest Waitata Mid-Channel farm to go ahead. This massive farm was proposed to use 8,000-10,000 tonnes of feed, about 4.5km from the biggest King Shag colony, Duffers Reef. This farm was not recommended by the Panel based on significant reservations on landscape and natural character issues. Now MPI has released a first indication that a divergence from the Panel's advice may be imminent (Further public comment will be sought if a revised proposal is put forward by NZKS and iwi that is significantly different to that consulted on previously). Friends is worried that such a proposal will forever change this part of the Marlborough Sounds and we will participate in the debate to challenge such development.

Offshore farming: The technology for offshore farming was suppressed at the time we the relocation proposition was discussed. From the Panel's report (June 2017):

- NZKS states that commercial offshore farming will occur sometime in the future, perhaps up to ten years away.

There are currently no commercial farms worldwide that are located in true offshore conditions (rated for waves up to 12m), the technology is developing but at this time the risks are too high and the technology expensive.

- Mr. Lees, from MPI, commented that offshore aquaculture is not the panacea.

It doesn't remove farms from the Sounds necessarily. You still need farms in the inshore as well as the offshore. They operate in tandem. When you put fish into the water they would have to go into inshore farms just because of the climate nature. You could then farm them in offshore farms but you would need to bring them back in for harvest as well into the inshore areas.

- The Panel considers that the time frame to develop commercial offshore farms is **medium to long term** and that inshore farm consents should be limited to medium term.

Well here we are, 2 years down the track and 13 these offshore farms are planned along the east coast of the South Island and can be operational in 2020. So effectively King Salmon gets it all, existing inshore farms, consideration for relocation of farms and off shore farms. Most importantly the alternative to offshore farming and its technological application was suppressed to get the best outcome. At the time of our deliberations, Norway was already on its way towards such technology. Friends will participate in the debate around such development. Due to the scale of this request, the Minister of Conservation Eugenie Sage has called the application a matter of national significance that needs to be heard by the Environment Court.

Existing farms: Friends submitted to an expansion of the surface area of one of the fast flow farms in the Waitata Reach. Where this farm is also involved in problems with higher fish mortality due to disease and water temperature, the initial development of this farm after being consented by the Board of Inquiry has already created effects on the seafloor that is close to the limits of some benthic parameters. Precaution for further development as per adaptive management is warranted. Friends perceive this application for expansion a further dilution of their environmental footprint to stay compliant. We hold the view that they should farm sustainably within the confines of their consent.

6. Blowhole Point, Outer Sounds. Marlborough Aquaculture Ltd (MAL) U177008 had a mussel area which overlapped with NZKS U161142 and the High Court ruled MAL had the prior right, which in turn wished to sell the site to NZKS. Friends opposed both applications for the area since it has high conservation value and is close to Duffers Reef and part of the King Shag feeding area. The outcome awaits a decision by the Minister of Fisheries.

7. Wakatu Mussel Farm. In March 2013, Friends signed a Memorandum with the Environment Court about their appeal to the biggest mussel farm in the Marlborough Sounds area. The farm was decreased to 450 ha and the farm was going to progress in a staged development dependent on the outcome of various environmental studies. Friends proposed a number of studies, including the effect of mussel grazing on zooplankton and the flow on effect on bird and sea mammal distribution. Mussels are efficient grazers on zooplankton in the water column but the effect is poorly known in New Zealand conditions and Friends were delighted that such a study could now be initiated.

The uncertainty about 'effect' of a farm of such size was the nucleus for parties signing the consent. Since that time, a number of reports have been produced by the science provider, Cawthron Institute^{2 3}. Friends and Wakatu are further negotiating what should happen now these studies are problematic in providing further answers of 'effect' of activity.

²Newcombe E 2017. Wakatu Inc. mussel farming site in eastern Tasman Bay - water column reporting to July 2017. Prepared for Wakatu Incorporation. Cawthron Report No. 3059. 6 p. plus appendix.

³Newcombe E, Bennett H 2017. Wakatu Inc. Mussel farming site in eastern Tasman Bay - changes to consent conditions, and proposed environmental monitoring plan for the seabed and water column. Prepared for Wakatu Inc. Cawthron Report No. 3083. 37 p. plus appendix.

Wakatu wants to develop 50% of the farm at this stage, which we perceive as problematic. Friends observe that both scientific and resource issues need to be addressed by Wakatu. A combined workshop with national and international experts is proposed. This would not only elevate the monitoring of environmental effects of mussel farms but may well contribute to a wider understanding of 'effects' of the industry and result in a better understanding of sustainable management of our marine resources in the rest of New Zealand.

C. Tasman District Council (TDC) area

1. Planning:

- Identification of Areas of Outstanding Natural Landscapes & Features (ONLs, ONFs) is not only required by law, but TDC has a commitment dictated by a Memorandum of Understanding (which has not been complied with) as a consequence of Environment Court appeals. Nonetheless, no ONL, nor ONF have been designated. This is despite nearly \$1 million of rate payer funds expended, not counting time and effort of many volunteer hours, solely on Golden Bay, with much stalling and no decision. A report from the Golden Bay Small Working Group was produced by TDC two years ago, which was supposed to form a proposed (or draft) plan change.

Tasman District Council has now stated that the Outstanding Natural Features and Landscapes for the WHOLE of the district will be "rolled into" the planned review of the Regional Policy Statement and the Tasman Resource Management Plan. They intend that this will be completed (in a proposed plan change format) within the term of the new Council (i.e. not until the end of 2022, most likely).

- This ONF question has made recent headlines because the Foulden Maar area in Otago (a unique 28 million year old site of perfectly preserved fossils), is scheduled to be mined for diatomaceous earth for pig feed. Geologists and archaeologists state it is of national importance and needs to be designated an ONF in the District Plan. The "Best Practice Guide" publication of the Geoscience Soc NZ, Publ No. 154 on ONFs, contains photos of four Tasman sites which should have ONF designation and protection (these are just a sample of geologically unique sites and not ecological ones). TDC has no designated ONFs and so far seems to believe they have no obligation. On this issue Friends works with Forest & Bird and Friends of Golden Bay and other concerned groups.

2. Private Plan change:

- Wainui Bay Spat Catching Group (WSCG). Env 2017-WLG-10. The Environment Court declined the plan change which resulted in the original status (Discretionary) being retained with expiry of all permits in 2024. Doubtless these will be reapplied for before then or another Private Plan Change lodged. Issues include landscape impacts as well as effects on natural character.

3. Resource consents:

- Talley's Group Ltd. RM 140156,-7,-8,-9, RM160291 has discharges of wastewater to Moutere Inlet/coastal marine area. Talleys appealed the Commissioner's decision; the Friends joined as a s.274 party (ENV-208-WLG 0005). This was settled by consent order by mediation with Talleys which required upgrades of equipment, and monitoring. Iwi did not sign because they did not want any discharge (from fish, fruit, veg and ice cream) into fresh water. Consent to discharge storm, truck and wash water is allowed for 15 years.
- Riwaka jetty application by D.&N. Inch. RM 150737,-738,-885. This application lodged in 2017 has been modified: the Friends objections still stand and Council is awaiting the applicants' agreement to hearing costs.
- Pakawau 345 metre Seawall/revetment (RM1701/289/290) in the coastal marine area/on esplanade reserve. The application was declined by Commissioner due to the cumulative and significant effects on coastal processes, natural character, visual amenity and landscape values; contrary to the Coastal Assets Management Plan; not consistent with various policies and objectives of the Regional Policy Statement and the Tasman Resource Management Plan and contrary to Policy 27 of the NZ Coastal Policy Statement. The Friends' initial submissions and hearing submissions covered all of these issues. The decision also signalled that TDC needs to progress coastal hazard/erosion planning.

4. Planning/strategies etc.

- In 2007, DOC, Forest & Bird, Ministry of Agriculture & Forestry, Federated Farmers and the Friends signed a Memorandum of Understanding with TDC as settlement of appeals on the (Proposed) Tasman Resource Management Plan regarding the management of indigenous biodiversity and other ecological values on private land in Tasman District. This resulted in the establishment of the Native Habitats Tasman Oversight (NHTO) Group which seeks to increase protected areas. The work that this group does may be “rolled into” the Tasman Biodiversity Strategy.
- TDC received a storm water report from OPUS and is developing a strategy for urban storm water with runoff directed to 'natural' swales and streams.
- TDC's Biodiversity Forum is to develop a biodiversity strategy with Rough Island/Motuiti wetland included.

D. Nelson City Council (NCC) area

1. Resource Consent applications:

- L.G.(Gaire) & N.J.Thompson Revetment/north-eastern Nelson Haven. ENV-2018-WLG-23. Friends were an s274 party in support of NCC's Commissioner's decision. The matter included conditions of cement block and rock "protection works". It was “settled” by mediation with NCC required to check every 2 years up to 14 years. Due to the applicants' past non-compliance with conditions, this work needs to be closely monitored by Council and the Friends.

- Port Nelson Ltd, which is owned jointly by NCC and TDC, has completed the dredging for the Calwell slipway. The Copper and TBT measurements were within the acceptable levels of the Resource Consent. Friends were unable to obtain bioassay measurements included. The Port is expanding its dredging programme to accommodate bigger ships. The spoil is dumped in Tasman Bay north of Moturoa/Rabbit Island, contributing to the benthic sediment which is smothering biota recovery.

2. NCC's Biodiversity Forum is developing a detailed strategy for terrestrial/freshwater in the Council area. A Coastal and Marine sub group is now reporting to each Forum meeting as a first step in developing a strategy for the coastal/marine area. The initial meeting had representatives from 15 groups/stakeholders and an initial Strategy is being developed.

3. Coastal Hazard meetings were arranged for various parts of coastal Nelson with Jim Dahm as a consultant to the Nelson City Council (and Tasman District Council).

E. General and Miscellaneous.

1. As a result of viewing the film "Blue", about the world's oceans, after our last AGM, some people took up the suggestion made by the film, to pick up at least 3 pieces of plastic from foot path gutters each day. It turns out this is very easy, since so much junk is dropped daily and contributes to the tonnage of rubbish gathered on Tasman's foreshore such as Tahuna beach and the Waimea Inlet. It is best to pick it up before it gets to the seashore.

2. Friends continues to give an annual award to Cawthron Scitech Expo school projects that deal with coastal conservation. Committee members also volunteer as judges at the event. Last year's prize went to a documented history of the Marahau coastal changes, especially the effect of Cyclone Gita.

3. Committee members have attended a Fisheries open day, a gathering to meet the Fisheries Minister, a regional Top of the South biodiversity strategy meeting organised by the Environment Ministry, a Sustainable Seas National Science Challenge for Ecosystem Based Management (EBM) involving five universities, NMIT and several Crown Research Institutes, Waimea Inlet Forum meetings and we filled out an on-line questionnaire of Top of the South Growth Strategy and attended the Environment Awards evening at the Marlborough Convention Centre and follow-up public meeting at the Research Centre in Blenheim.

4. The consultation on the proposed National Environmental Standard (NES) for Marine Aquaculture closed on 8 August 2017, with approval by the Minister for the Environment and the Minister of Fisheries expected by the end of 2018 – this does not appear imminent. All 107 submissions (including the Friends) can be found on <https://www.mpi.govt.nz/news-and-resources/consultations/proposed-national-environmental-standard-for-marine-aquaculture/submissions/>

5. The NZ Biodiversity Strategy (NZBS) and the National Policy Statement on Indigenous Biodiversity (NPSIB). Workshops, facilitated by Glen Lauder, and consultation are proposed with a consultation document due mid-July on the NZBS. The NZBS involves all relevant

government departments and other stakeholders, including councils, and will include coastal and marine issues. The NPSIB, which has been “slowed down” due to the Biodiversity Strategy, will not include coastal and marine issues. We encourage members to be involved in both these processes.

6. The Kotahitanga mo Te Taiao strategy – a Top of the South Island (TOS) biodiversity strategy, involving all three TOS councils plus Buller and Kaikoura DCs and West Coast Regional Council, and TOS iwi, provides “high level outcomes to achieve significant conservation gains as well as social, cultural and economic benefits to communities...” This is seen as “transformative” and “aspirational” and while the Friends were not involved in the production of this document, it makes an interesting read covering beech forest, eastern dryland, alpine hinterland, the sheltered Marlborough Sounds, freshwater catchments, and varied marine environments including extensive intertidal flats and wild and exposed coasts, on a landscape-scale. You can access the document on:

<https://www.doc.govt.nz/contentassets/cf2bf2f877544dc29594442365ca797c/kotahitanga-mo-te-taiao-strategy.pdf>

F. Acknowledgements

1. As ever the essential voluntary work done by committee members makes the above possible. People seem to feel that since Friends exists, it always will. It is not that simple.
2. Support of the members is also essential, so many thanks to all who read this. We also appreciate your donations very much.
3. The pro-bono and reduced fee work by various experts and legal counsel is essential and is very much appreciated.
4. We work collaboratively with many groups and individuals and this is essential and very much appreciated. These include Nelson/Tasman Forest & Bird, Friends of Golden Bay, Friends of Moutere Inlet, Guardians of the Sounds, Kenepuru & Central Sounds Residents Association, Department of Conservation and the Environmental Defence Society.
5. Much appreciated financial help from the New Zealand T-Gear Charitable Trust.
6. Thanks to the Ministry for the Environment Legal Assistance Funds.

Respectfully submitted, **Dr. Gwen Struik**

with essential help of committee members.