

Friends of Nelson Haven and Tasman Bay (Inc)

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ANNUAL GENERAL MEETING

Thursday 22 July 2004, 8 pm, Hearing Rooms, 354 Trafalgar Square

The meeting will be short and followed by refreshments, sweet, savoury and wet (coffee, tea and fruit juice) when you can meet committee members, share ideas, and learn from each other.

Chair's report July 2003 - June 2004

It has been a busy, challenging and rewarding year for Friends. Our major triumphs have been in important matters with long-lasting effects, which receive little media publicity. These include changes to district resource management plans and Environment Court decisions – some of which were six or more years in the making.

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1. Highlights and Lowlight.
2. Resource Management Plans for Nelson City Council (NCC), Tasman District Council (TDC) and Marlborough (MDC).
3. Marine farming – Aquaculture
4. Other activities – Nelson sewage treatment, wetlands, Friends history, Port Nelson, Airport, FRIAs.
5. Thanks
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1. Highlights

- 1.1 We now have a web site so recent annual reports and current information can be readily accessed on www.nelsonhaven.org.nz. The UN Atlas of the Oceans has indicated interest in including a link to our web site. The Atlas is an information system designed for use by people who need to become familiar with ocean issues and who need access to underlying data bases and approaches to sustainability.
- 1.2 Nelson's Plan now prohibits aquaculture from four Nelson estuaries including Waimea Inlet (NCC's part), Nelson Haven, Delaware Bay and Whangamoia Estuary – signed August 14, 2003 just after our last AGM.
- 1.3 Tasman's Plan Consent Orders, signed 26 May 2004, made important changes due to Friends submissions.
- 1.4 Beatrix Bay marine farm Environment Court decisions were both in Friends' favour. These decisions are a major event, which will likely affect future plans.
- 1.5 Friends have a grant to enable writing of our history and continue the inventory of our files.

1.6 Lowlight - TDC has not yet identified Landscapes of Outstanding Value which TDC removed from the previous plan and are required to reinstate. Even Abel Tasman National Park was removed from designation.

2. Proposed Resource Management Plans

2.1 Nelson: Five consent orders (agreements between parties, signed by an Environment court judge) were signed by Friends and NCC, relating to preservation of the natural character of our coastal environment and avoiding inappropriate reclamations (in-fillings). Many changes were to wording, which will clarify or strengthen the Plan. One consent order, alone, has 65 changes so there is much detail which will make significant difference to future decisions under the Plan.

2.2 Tasman: Important changes have been made to the proposed plan after submissions by Friends and this process continues. Consent orders signed on the plan included limiting industrial development in the coastal zone and preserving the natural character of the coast by avoiding sprawling or sporadic subdivision, use or development. Two policies from the N.Z. Coastal Policy Statement 1994 have been adopted into the Plan. They are:

“3.2.2. Adverse effects of subdivision, use or development in the coastal environment should as far as practicable be avoided. Where complete avoidance is not practicable, the adverse effects should be mitigated and provision made for remedying those effects, to the extent practicable.

“3.2.4. Provision should be made to ensure that the cumulative effects of activities, collectively, in the coastal environment are not adverse to a significant degree.”

Major concern still continues over TDC not identifying coastal landscapes of importance. Friends, alone, have the legal right to pursue this, although DOC (Department of Conservation) is strongly supportive.

2.3 Marlborough: Wairau – Awatere Plan. A Consent Order has been signed covering numerous aspects of the coastal environment in the plan. The many improvements will assist in reducing inappropriate Resource Management Act (RMA) applications and assist better decision making.

3 Marine farming – aquaculture.

3.1 The Tasman Aquaculture Inquiry (TAI) for Tasman/Golden Bays is still being negotiated. The 2nd Interim Court decision directed the parties to work out the conditions for moving from mussel farm adaptive management Stage 1 to Stages 2 and 3, and while marine farmers want to move quickly unless major impacts are demonstrably bad, the precautionary approach is to move ahead if there is evidence that effects are minor. Access to monitoring information and its interpretation are also issues not easily anticipated. Friends is represented at these deliberations.

3.2 Marlborough Sounds . At present there are about 210 marine farm applications nation wide being processed by Ministry of Fisheries (MFish), of which about 90% are for Marlborough Sounds coastal waters. Very large farms (4500 ha in Bay of Plenty and 2500 ha in Hawkes Bay) have already been granted.

3.21. Beatrix Bay decisions were for two 42.25 ha mid-bay farms. MDC declined one, which the applicant Kuku Mara appealed, and granted the other, which Friends and other parties appealed. Kuku Mara lost its appeal and Friends' appeal was granted. The Environment Court hearings were in November '02, February '03 and April '03, and the 207 page decision was signed in May 2004. It states:

“(26) The Friends are well known to the Court. They are a serious coastal “watchdog” advocating for the best interests (as they understand them) of the coastal environment in this region.

“(28) The Friends and JGM Ltd.* are concerned that ... the limits of ecological sustainability have been reached in Beatrix Bay...”

*[a group of marine farmers working with Friends on this case]

The final decision, as stated in the Court's report, was mainly based on amenity value, landscape, seascape, navigation and natural character of Beatrix Bay (see attached cutting). These decisions will affect future applications and decisions. Now that we have been officially described as a “watchdog”, we can bite as well as bark.

3.22. Eastern Tasman Bay - MDC has granted resource consent for a 770 ha farm West of D'Urville Island to Wakatu Inc., and declined a second 825 ha farm (see attached cutting). Friends have appealed the former and Wakatu the latter, and the parties have negotiated that just two trial lines proceed in conjunction with at least one years environmental studies ahead of further negotiation or a full appeal.

A major concern for Friends is that any base line or monitoring data be made publicly available. This issue of access to data vexes decision-making in Parliamentary select committees, Courts, Councils as well as “watchdog” groups such as Friends.

3.23 Large mid-bay Sounds marine applications with which Friends are involved include Crail Bay, Tawhitinui Reach, Forsyth Bay, Admiralty Bay, Port Ligar, Bonne Point at D'Urville Island, Melville Cove at Port Gore and East Bay, Arapawa Island.

The Crail Bay application has been withdrawn, likely due to a NIWA scientists' report commissioned by MFish on maintaining adequate nutrient availability for existing farms.

The Tawhitinui Reach farm application has been reduced from 33 ha to 24 ha to allow for small boat navigation in a stretch of water with a huge fetch. MDC has declined the application, but that decision is being appealed.

Forsyth Bay's MacLab application has been reduced in size. Another Forsyth Bay application by Oldham has been granted and Friends is appealing that decision.

Admiralty Bay is the site of 2 large applications by Kuku Mara for which Friends is preparing. People who came to our last AGM will know that this Bay is important to the Kaikoura Dusky Dolphins which have been found, by Texas A&M University dolphin researchers, to commute between these two areas. DOC has joined the Texans and Friends in common concern.

Another Kuku Mara 35ha application lies in the entrance to Port Ligar, a popular boaties' haven. A refusal by MDC has been appealed, and Friends will be supporting the council in defence

Bonne Point, D'Urville Island: Two mediation sessions have been held, including a site visit. The outstanding issue is natural character, which Friends, MDC and DOC are defending, and the applicant is taking a stance relating to iwi issues. An appeal hearing on those issues is yet to be set.

Sanford recently withdrew the last of their 6 mid bay appeals, in Melville Cove.

Totaranui in East Bay, is still unresolved. The MDC declined two large adjacent marine farms at Arapawa Island and both were appealed.

4. Other activities and relevant matters

- 4.1 Nelson North sewage treatment plans and Wakapuaka wetlands. Since 1968, when the out fall pipe for raw sewage into Tasman Bay was proposed, environmentally minded people have suggested, and submitted on, land disposal of effluent. This has recently been taken up strongly by NIRMAK (Nelson Iwi Resource Management Advisory Komiti) who advocate for a wetland alongside the present treatment ponds. Their CIA (Cultural Impact Assessment) of the Nelson Sewerage Scheme has much sound ecological thinking and is well worth reading. NIRMAK is organising a hui in late June inviting all interested groups and individuals to discuss ways of co-operating towards good sewage management as well as incorporating wetlands into the treatment plans in preparation for the consent hearing.
- 4.2 Wetlands at Wakapuaka on DOC land which is alongside the proposed NCC wetlands of 4.1 above will be developed. DOC wishes to co-operate also, with all interested people. DOC plans have been in process for more than a decade. The latest, Maggie Atkinson report, will be released after NCC vetting
- 4.3 A Lottery Environment and Heritage grant will enable us to get our archival files inventoried and a history of Friends written.
- 4.4 Port Nelson Ltd. - Friends is represented on the port's environment advisory committee, and we also port watch on matters brought to our attention. We have consent memoranda on Calwell Slip dealing with some nasty pollution questions which are reaching a satisfactory solution. We are also being kept informed on the progress of Sealord's consent renewal to discharge fish factory

effluent through a pipe which ends 300 metres outside the Boulder Bank in Tasman Bay. A major report by Cawthron Institute will aid in determining how long the new consent will run for.

- 4.5 Noise Environment Advisory Committee and Fisheries Liaison Committee. Friends continue to have representatives on these two committees. The issues of the former are airport/aircraft noise management, applications for resource consent within the Airport Effects Control and Advisory Overlay, and local methods of wildlife management control. The latter is run by MFish as a regional advisory group on the Challenger Fisheries Zone.
- 4.6 Point Road, Monaco Foreshore Protection Works. Construction on the road upgrade and sewer along side the estuary has stopped. The road needs to be high enough to keep it from flooding, but low enough to give aircraft 4.35m of clearance. How these two matters are resolved will take major ingenuity. Watch this space.
- 4.7 Bay wide, Fisheries Resource Impact Assessment reports (FRIA) are commissioned by MFish to determine ecological effects and marine farm sustainability. The first FRIA is for Forsyth Bay and is being done by NIWA scientists. We are not sure whether these are the same NIWA scientists who have worked for companies applying for marine farms. We understand that the summary will be available, but raw data may be withheld as being privately owned or "commercially sensitive". Access may, then, be possible via the Ombudsman and the Official Information Act, but may not. Since data can be manipulated in a variety of ways, having access only to summaries and conclusions does not create a level playing field. Welcome to the brave new world of secret "science".

5. Thanks.

- 5.1 First of all, thanks to our dedicated committee members who work hard with little reward aside from the knowledge that our efforts make a better world more likely in the future. Much of the successes this year was due to the efforts, over the past decade, of our former secretary Russell Fenny. His extensive knowledge has left a lasting legacy, particularly evident in the region's RMA plans.
- 5.2 To Tony West, also a past office holder, who has given Friends a framed, original water colour painting (44 x 37 cm) of Delaware Bay by Perrine Moncrieff. Mrs. Moncrieff was a founding member, a committee member and gave Friends their name. We are open to suggestions of how to best use this painting.
- 5.3 The financial help, which is essential to all our work, has come from the following sources for which we are most appreciative:

Community Trust, Waikawa Boating Club, Marlborough Sounds Trust, Lone Star Ltd., Nimbus Software, Maruia Nature Company (miranda@nznature.co.nz) members fees and large donations from

individual members. U-Bix Nelson Marlborough assisted us greatly with photocopying and Lottery Environment & Heritage has provided a grant (see 4.3 above).

5.4 We are also grateful to planner Dennis Nugent, landscape expert Di Lucas and lawyers Warwick Heal and Julian Ironside for reduced fees in recognition of our volunteer, not-for-profit status.

6 The Future

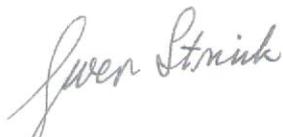
6.1 New members are always welcome, and we are ever in need of people with knowledge of our coast and of the Resource Management Act.

6.2 New committee members are also needed. Our present group works well together but new faces and talents are always welcome.

6.3 Friends are registered as a charitable group and hence donations are tax deductible to \$1890. We would be happy for any donations. It has come as a shock, to us, that Court fees are likely to rise substantially.

If you wish to contact us on any relevant matters, we can be reached by mail (P.O. Box 715, Nelson.), email (info@nelsonhaven.org.nz) or phone Tom Kennedy (03 5488467) or Pam Lambert (03 5459294).

Thank you all for your continued support, it is absolutely essential to us.



Dr. Gwen Struik,

Chairperson

Mid-bay marine farms turned down

by Kim Chisnall

An Environment Court decision not to allow two mid-bay marine farms to go ahead in the Marlborough Sounds may have far-reaching consequences.

Judge Shonaugh Kenderdine and commissioners John Mills and Jenny Rowan decided that neither of Kuku Mara's 42.45 hectare marine farms in Beatrice Bay will be allowed to go ahead.

In 2000, the Marlborough District Council declined an application by the partnership Kuku Mara for a resource consent for a marine farm in the eastern part of the bay but granted a consent for a farm of the same size in the western part of Beatrice Bay.

Kuku Mara appealed the decision to decline its application in the east of the bay, and Friends of Nelson Haven, the Marlborough Environment Centre and JGM Ltd appealed against the council's decision to grant the western farm.

The court allowed the appeal by those opposed to the western farm and disallowed Kuku Mara's appeal.

Council resource consents officer Keith Heather said the decision seemed to give a clear indication that mid-bay marine farms would not succeed in the Environment Court.

"The decision talks about the offshore waters being pristine and how the farms will modify the sur-

face waters significantly which could apply to almost any bay in the Marlborough Sounds."

Mr Heather said although every application was different, with its own site specific issues, the decision could affect future appeals.

"A lot of the marine farms that have been under appeal have been waiting for this decision to be released. I'm sure some appellants will be reviewing their case as a result of this decision."

The court found that the sustainability threshold for marine farming in the bay had not yet been reached and the monitoring regime proposed by Kuku Mara would be adequate to detect and mitigate any adverse ecological effects.

However, Judge Kenderdine based her decision on adverse effects of the proposed farms on the amenity value, landscape, seascape, navigation and natural character of Beatrice Bay.

She said that in visual amenity terms the two farms combined with existing farms in Beatrice Bay will create a bay environment which would be entirely dominated by marine farms.

The offshore coastal waters sustained rare bird life and mammals which reflected their high natural values and the placement of the farms in this area made them inappropriate developments for this part of Beatrice Bay.

Marlborough Environment Centre spokesperson Steffan

Browning said he was pleased with the overall decision.

"There was a clear message of the importance of the natural character of mid-bay areas which could be transposed on other appeals."

However, he was disappointed the court had accepted NIWA's carrying capacity model to decide on a sustainability threshold.

"We argued that the model did not take into consideration the wider aspects of the bay's ecosystem and focussed only on shellfish. It is saddening that we didn't have the resources to provide an alternative model to the court."

Kuku Mara spokesperson John Pickering said they were "still considering the options" and had yet

to decide whether they would appeal the decision to the High Court.

Mr Pickering said Kuku Mara had invested over \$3 million in Environment Court hearings to date and they were finding the process frustrating.

"We applied from the resource consents for Beatrice Bay in 1999, it has been six years of fighting. In hindsight it would have been a better option for us to invest offshore."

He said the decision was a "huge loss" for Marlborough and New Zealand.

"We estimated that each farm would have provided 122 fulltime jobs in New Zealand, 60 of which would have been in Marlborough."

Aquaculture rules out for scrutiny

By Lane Nichols

A set of draft planning rules for aquaculture in Tasman and Golden Bays has been prepared by the Tasman District Council and is now out for consideration.

The council, iwi, industry representatives and the Crown have been locked in a protracted court battle over how aquaculture will proceed in the region.

The ongoing delays are estimated to be costing the region millions of dollars in lost opportunities each year.

Environment and planning manager Dennis Bush-King said the council's draft rules had been drawn up in accordance with judgments from both the High Court and



Dennis Bush-King,

Environment Court.

They had now been sent to all of the parties involved in the court action to consider.

Mr Bush-King said the parties were due to meet on April 23 to try to reach agreement over the content of the aquaculture planning rules.

Once agreement was reached, the provisions could be sent back to the Environment Court for approval before they are signed off by the Conservation Minister.

The planning provisions related to technical design considerations, like distance between lines and navigation aids, as well as rules to "guide the decision-making process", Mr Bush-King said.

MM
7 Apr 04
p4

Big mussel farm accord

By Lane Nichols

A compromise between the Wakatu Incorporation and an environmental group could allow the first stage of a giant submerged mussel farm to proceed off D'Urville Island.

Wakatu was granted resource consent for the 770ha farm by the Marlborough District Council last May and the Ministry of Fisheries is now deciding whether to issue a fishing permit for the venture.

Browning said a draft consent order had been negotiated between the two parties that could allow Wakatu to proceed with the first stage of its venture.

This would involve Wakatu setting up initial structures in the water to test its technology, but the agreement must first be approved by the Environment Court.

Mr Browning said the Friends agreed to the draft consent order on condition Wakatu abandon its appeal over the declined resource consent and

Friends of the Nelson Haven and Tasman Bay took an appeal against the consent to the Environment Court because of fears about navigation and potential adverse environmental effects from the farm, the main structures of which will be about 10m below the surface.

Meanwhile, commercial fishing representatives presented a submission to MFish opposing the marine farm.

The group, which includes Talley's Fisheries and the Port Nelson Fisher-

men's Association, argued the farm would impinge on traditional fishing grounds and adversely affect catches.

The council declined resource consent for a second 825ha submerged farm on the grounds that it presented a navigational hazard, but Wakatu appealed the decision in the Environment Court.

It confirmed today the appeal had been dropped following negotiations with the Friends group.

Friends committee member Steffan

agree to undertake intensive environmental monitoring in addition to what it would otherwise have carried out.

Mr Browning reiterated the agreement would only allow stage one of the marine farm to proceed. He was unsure if the full venture would eventually go ahead.

"I would like to be reasonably open-minded, but the only way they'll get a green light is if the Friends drop the appeal totally."

Wakatu chief executive Keith Palmer

said the process had been "drawn out but he was hopeful the agreement would gain Environment Court approval.

Fishermen's association president Darren Guard said no marine farming structures could be set up until MFish granted a fishing permit.

An Mfish spokesman said the fishing permit could not be considered until it received notification from the Environment Court and research information from Wakatu.

Nelson Mail 12 May 04 p10

Sanford ends marine farm bid

Fishing company Sanford has ended its fight to establish a mid-bay marine farm in the Marlborough Sounds, and has withdrawn its appeal to the Environment Court. Sanford applied for a resource consent for the 32ha mid-bay farm in Melville Cove, Port Gore, in conjunction with Ngati Apa and Te Atiawa in September 2001, but Marlborough District Council declined the application. Sanford Havelock manager Bruce Cardwell said the council declined the application because of navigation and landscape issues. - NZPA/AP

Groups may join in bid to halt farms

By Tracy Neal

A Nelson commercial fishermen's group is keen to join forces with an environmental group in a bid to stop development of two huge mussel farms in Tasman Bay off the coast near French Pass.

The Port Nelson Inshore Fishermen's Association is gearing up to fight plans for the two farms proposed three years ago by the Wakatu Incorporation.

Association president Darren Guard said it was gathering support to help Friends of Nelson Haven and Tasman Bay with its appeal to the Environment Court, in opposition to the resource consent issued to develop one of the two mussel farms.

Mr Guard, who has recently taken over as association president, said the farms threatened winter inshore fishing grounds and were an environmental danger and a navigational hazard.

"Structures like this along that stretch of coastline could be catastrophic for boaties," he said.

The Wakatu Incorporation has, for the past three years, been working towards development of two revolutionary submerged mussel farms west of D'Urville Island and Croisilles Harbour. It notified a resource consent application in June 2000 to develop the two farms, originally covering a total of 1500ha north and south of the western entrance to French Pass.

It was lodged before a moratorium was placed on marine farm applications.

The Marlborough District Council declined consent for the southern farm on the grounds it presented a navigational hazard, but recommended development of the

northern farm. Wakatu Incorporation has appealed the council's decision to decline the southern farm. Friends of Nelson Haven have lodged an appeal with the Environment Court against the decision allowing development of the northern farm.

The farms would be built 10m below the sea surface, but abnormal wave patterns and sea conditions in the area would make them serious hazards to shipping and boating in the area, Mr Guard said.



Darren Guard, gathering support

Wakatu Incorporation chief executive Keith Palmer, and Friends of Nelson Haven spokesman Tom Kennedy said today they were talking to attempt to resolve issues.

Mr Kennedy said the group had a lawyer and expert environmentalist working with it on the appeal, but welcomed further support.

Mr Palmer said the southern farm proposal was reduced by half as a result of several valid points made at the hearing, and it was possible it might be dropped from Wakatu's plans altogether.

But that would depend on how much could be achieved with the northern farm's development. Mr Palmer said if the incorporation had to go to the Environment Court, it might as well take the fight over the southern farm proposal too.

He said the whole idea behind developing the farms in the outer Marlborough Sounds was because of the concern over lack of space in the inner Sounds.

Mr Guard said there were concerns over the precedent the mussel farms would set for further development in Tasman Bay.

Groups oppose mussel farm plans

NzMail 30 Oct 2003 p3

By Lane Nichols

Commercial fishing representatives have lodged a submission with the Ministry of Fisheries opposing the development of a big mussel farm off D'Urville Island.

The submission was presented to MFish last week on behalf of the Challenger group, the Federation of Commercial Fishermen, Talley's Fisheries and the Port Nelson Fishermen's Association.

Wakatu Incorporation has applied to MFish for a permit to begin operating a 770ha submerged mussel farm in Tasman Bay, west of D'Urville Island.

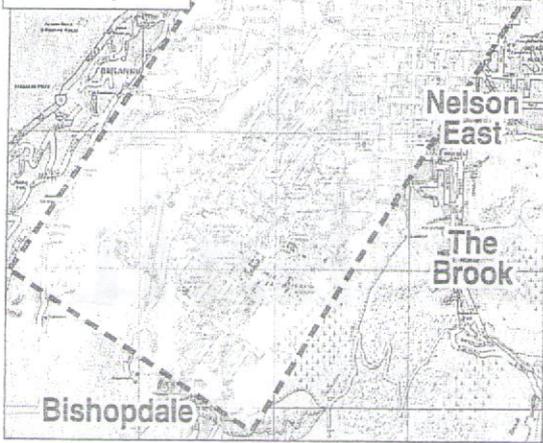
Commercial fishermen have opposed the development, which they say will pose a danger to boaties and cause significant adverse effects to the commercial fishing catch.

Resource consent for the farm was granted by the Marlborough District Council, but consent for a second 825ha submerged farm was declined on the grounds it presented a navigational hazard.

Wakatu has appealed the decision and is awaiting a hearing in the Environment Court.

Friends of Nelson Haven and Tasman Bay have lodged an appeal with the Environment Court against the council's deci-

770ha – the approximate area of Wakatu Incorporation's proposed mussel farm in relation to the Nelson city area.



MAIL GRAPHIC

sion to grant a resource consent.

Fishermen's association president Darren Guard said the proposed farms were located in one of Tasman Bay's prime fish-

ing grounds.

The area was used heavily for trawling and steaming, and was particularly important to commercial fishers during winter months.

The farm with consent approval would measure about 8sq km and render the entire space redundant for commercial fishing, Mr Guard said.

"Commercial fishermen have utilised that area for more than 100 years. We're all relying on the ministry's discretion to realise and understand that this would change the shape of inshore fishing in Tasman Bay."

Mr Guard said there was concern for the precedent the mussel farm would set for large-scale development in Tasman Bay.

Other submissions were expected on behalf of iwi, environmental groups and recreational fishermen.

If MFish granted the fishing permit, commercial fishers were likely to join forces with the Friends to fight the development in the Environment Court, Mr Guard said.

MFish senior fisheries management advisor Scott Williamson said Wakatu's fishing permit application was received in July.

MFish was now considering the application and expected to make a preliminary decision early next year.

Crail Bay plan dropped

Nelson-based MacLab has withdrawn an application for a marine farm in Crail Bay in the Marlborough Sounds, a month before the case was to be heard in the Environment Court.

The company said new scientific research had shown that the bay had "productivity issues".

MacLab, which produces mussel

powder for the production of the mussel extract lyprinol, was denied an application for a 46-hectare marine farm in Crail Bay by the Marlborough District Council in February 2001.

MacLab reduced the size of the proposed farm to 11ha and appealed the decision to the Environment Court. - NZPA

NzMail 17 June 2004 p2