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# CAWTHRON MARLBOROUGH ENVIRONMENT AWARDS 2019

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## JUDGES' REPORT MARINE

### FRIENDS OF NELSON HAVEN AND TASMAN BAY

<b>INTERVIEWED</b>	Rob Schuckard, Gwen Struik, Helen Campbell, Andrew Caddie
<b>DATE</b>	December 3, 2018
<b>JUDGES</b>	Eric Jorgensen, Paul Gillespie, Bev Doole

#### INTRODUCTION

Friends of Nelson Haven and Tasman Bay (Friends) are a voluntary environmental organisation with a strong focus on protecting the Marlborough Sounds from inappropriate development.

Their work includes presenting submissions on resource consent applications, undertaking studies for science-based legal challenges and submitting on council and government plans and policies to protect the marine environment and public water space.

The expansion of mussel and salmon farms in the Sounds has been a particular concern, with Friends advocating for baseline information and consideration of cumulative effects before further space is developed.



With limited resources, Friends are strategic in the cases they take on. They get involved when important landscape and ecological values are at stake, and where there is an opportunity to establish legal precedent.

The judges of this Award were impressed at the group's principled, science-based approach, tenacity and level of success with very limited resources.

### GENERAL INFORMATION

Friends of Nelson Haven was formed in 1973 sparked by community opposition to plans to reclaim a large part of Nelson Haven Estuary for industrial and residential development. They stopped the reclamation and have since grown into an environmental organisation focused on caring for and protecting the coastal marine environment in Nelson and Marlborough.

Friends has 100 members with a committee of six. Rob Schuckard, from Taipare Bay near French Pass, is the committee member leading the work in the Marlborough Sounds. Priorities are to safeguard water quality, marine life, habitats and landscapes for future generations.

The group takes a strategic approach in assessing development applications lodged under the Resource Management Act, particularly expansion of aquaculture. Criteria for taking on a case include the potential impact on the coastal environment and whether there is the opportunity to create case law.

These are time-consuming cases, especially if decisions are appealed to the Environment Court or higher up the legal system. Funding is always tight, relying on generous donations, the Environmental Legal Assistance fund and pro bono or affordable rates for legal and other professional services.

Over the decades, committee members put in thousands of unpaid hours preparing cases, commissioning independent reports and writing submissions. Friends' modus operandi is to present well researched, science-based evidence with an emphasis on a precautionary approach.

This voluntary effort is devoted to protecting the environment, particularly public water space and landscape values, and the unpaid nature of this work is often in contrast to resourced applicants seeking development.

Based on their approach of reasoned scientific evidence and sound legal argument, Friends have successfully challenged applications in the Environment Court and beyond. Some of these cases have taken many years to reach a final conclusion and tenacity has become a hallmark of the group. They have been involved in about 30 applications for marine farming space in the Sounds in the past decade.



Significant decisions include:

- **Beatrix Bay/Davidson Family Trust:** A 2014 application to add another mussel farm to the 37 farms already in Beatrix Bay. Friends and their lawyer presented evidence about cumulative effects and the impact on the rare king shag that feed in the area, and this was a key factor in the application being turned down by the Court of Appeal in 2018. It led to the formation of a working group on king shags, with Friends joining the Marine Farming Association, NZ King Salmon, DOC and the Marlborough District Council (Council) to improve understanding and protection of this iconic species.
- **Admiralty Bay:** In 2001, the Council granted 144ha in extensions to mussel farms in Admiralty Bay. Again, Friends were concerned about the cumulative effects on the marine environment, particularly dusky dolphins, and DOC joined their appeal to the Environment Court in 2006. Research by Texas University established that Admiralty Bay was an important feeding area for the dolphins and in 2016 the Court ruled against the mussel farm expansions. This is an example of Friends leading a case and other agencies such as DOC joining in later appeals.
- **Treble Tree Holdings:** An attempt to turn an experimental sponge farm consented for cancer research in the Waitata Reach into a full-scale mussel farm took 22 years of hearings and appeals. The Environment Court finally declined the application in 2018 based on the lapsing of the consent prior to the full hearing. Friends' argument was going to be centred on the threat to king shag feeding habitat and landscape values.
- **NZ King Salmon:** The 2012 Board of Inquiry to consider NZ King Salmon's application for nine more salmon farms in prohibited areas of the Marlborough Sounds was daunting for community environmental groups to understand and oppose. Friends joined forces with Sustain Our Sounds and their arguments centred on water quality, biodiversity and loss of landscape values. Friends were involved in preparing evidence right up to the Supreme Court hearing. The subsequent decision in 2014 resulted in six of the nine farms being declined and new case law acknowledging environmental bottom lines.

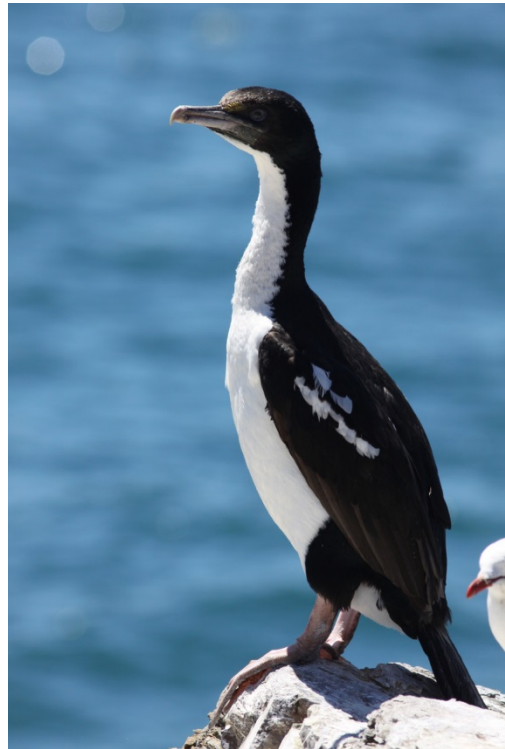
The successes were hard fought, and Friends realised early on that legal challenges are the ambulance at the bottom of the cliff and a more robust policy fence at the top of the cliff was required. This has led to a wider range of work for the group as shown below:

- Engaging in policy development for sustainable use of the Sounds through submissions to Marlborough District Council Resource Management Plans, most recently the Marlborough Environment Plan hearings on Biodiversity and Landscape
- Collaboration with other stakeholders in the Sounds, e.g. the Marine Farming Association, NZ King Salmon, the Department of Conservation and Marlborough District Council. Rob was also part of the working party that developed the NZ King Salmon Best Management Practice guidelines
- Collaboration with other community based environmental groups including Kenepuru and Central Sounds Residents Association, Forest & Bird, Marlborough Environment Centre, Sustain Our Sounds and Guardians of the Sounds. Also works with the Department of Conservation
- Communication with science providers; e.g. commissioning independent scientific reports to fill gaps in knowledge and guide decision-makers and policy processes
- Negotiation with applicant companies to secure funding for surveys to create baseline information on fish, bird and dolphin populations, e.g., Australian Worldwide Exploration oil-drilling west of D'Urville Island. Friends commissioned a template for Council on what environmental assessments need to be done for future oil drilling applications.

These are examples of the cases that Friends take on to challenge what they consider inappropriate development in the coastal area. This work is for the public good and future generations - there is no financial benefit to their members, and often quite the opposite.

Research carried out by Friends is available on their website for others to use. This is part of their wider approach in sharing their knowledge and expertise to enable better resource management and decision-making.

They work to raise public awareness about the environment, with presentations to NMIT aquaculture students and sponsorship of a prize at the Cawthron Science Fair. Two booklets written by Michael North on the history of Friends of Nelson Haven are also available on the website and are an excellent record of the environmental battles fought over the decades. The Group is a long-standing member of the Nelson Biodiversity Forum.



Despite their achievements, Friends are an organisation that doesn't "blow their own trumpet". They were nominated for these Awards by the Kenepuru and Central Sounds Residents Association to recognise their efforts to protect the Marlborough Sounds.

## PROBLEMS AND HOW THEY HAVE BEEN TACKLED

*Funding:* The work of Friends is not cheap. Taking cases to the Environment Court puts a heavy financial burden on the group, which relies on funding from donors and Environmental Legal Assistance grants to pay for legal counsel and witnesses (often provided at a reduced rate). The group has had good success with these funding applications, which points to their credibility and track record. They have never had costs awarded against them. They only proceed to the Environment Court if they have the funding to do a good job, which means they sometimes have to step back from pursuing a case.

*Succession planning:* Members of the committee have been involved for a long time - current chairperson Gwen Struik for 45 years – and they are acutely aware of the need to bring in new blood to avoid burn-out. They have tried recruiting younger people but the group's cases tend to be unglamorous and out of the public eye. The long-term nature of some of the issues can also frighten some people off. The longevity of those on the committee is a strength with their knowledge and experience, but it is also a vulnerability for the organisation.

*Public awareness:* Raising public awareness about issues in the Outer Sounds which are out of general view can be a challenge. Friends have in the past made good use of the media to gain support for their position.

*Lack of DOC involvement:* Under the previous government, the Department of Conservation's advocacy role and ability to participate in hearings was reduced with cuts in funding and staff. This put more pressure on Friends as a sometimes "lone voice". With the change in government in 2017, DOC is boosting its advocacy and research role again.

## SUMMARY

Friends of Nelson Haven have shown stamina and courage in engaging in often complex and lengthy legal cases to fend off what they see as inappropriate development in the Sounds.

The work of Friends relies on thousands of volunteer hours, financial donations and generous professionals, and members are solely motivated by community and environmental good, rather than business or personal gain.

The judges were impressed with the success rate and focus of the group - they have the ability to work out what can be achieved with the help offered and then take a science-based approach to preparing and presenting the case.

Through their efforts and collaborations there has been critical case law established and precedents set that have helped guide policy development and decision-makers when considering the use and development of the Marlborough Sounds.

Friends' achievements and longevity are remarkable for a voluntary group, all the more so because they do not seek the spotlight. In the words of one of the judges, they are environmental heroes and without their efforts the Sounds would be in a worse state.

## SUGGESTIONS

- Work to raise public awareness of Friends and the work you do – this may attract new members and funding. Based on your entry in the Awards, Wild Tomato magazine may be interested in a feature including a call for new members.
- Consider online petitions to raise awareness and gauge public support. This could also provide a way to gain political support. E.g. <https://our.actionstation.org.nz>
- Hold a public workshop about Friends, your successes and what you want to achieve in the future. Include an interview with Gwen talking about her 45 years with the organization and hopes for a succession plan: “Wisdom of elders, energy of youth.”
- Contact former Council Coastal Scientist Steve Urlich at Lincoln University about establishing a student internship programme with Friends during the summer holidays. [Steve.urlich@lincoln.ac.nz](mailto:Steve.urlich@lincoln.ac.nz)
- Use your networks to find a pro-bono contractor to update the website. It may be more inviting with more pictures, less text.
- Improve public access to your findings and knowledge. Approach Council to put your king shag findings up on the Council website coastal section and the Marlborough Sounds Cruise Guide app.
- Seek common ground to start relationships with Te Tau Ihu iwi; for instance Ngāti Kuia shares your concern about environmental damage from development in Pelorus Sound/Te Hoiere.
- Look to start a showcase project (or form a partnership with an existing one) that focuses on restoration and enhancement in the Sounds. This may help attract new members.