

Annual General Meeting Tuesday 5 August 2008

8pm Fairfield House Nelson

We welcome nominations to the committee. The meeting will receive the Annual Report, the Annual Accounts, discuss matters arising and elect committee and officers. Refreshments follow the meeting.

Volunteers are needed to help at a stall at Ecofest Saturday and Sunday August 16 and 17 for one hour or more. It is lots of fun, you meet great people and entry to Ecofest is free. Phone Pam at 545-9294 or email or write us at the above address.

Annual Report July 2007 – June 2008

We continue to work in the three unitary council areas of the Top of the South, since decisions in each area affect all regions, and the coastal waters don't recognise boundaries.

Much of our effort in the past year has been with two Environment Court cases: 1) Attempting the get Tasman District Council to re-introduce Landscape Priority Areas into its Plan, and 2) finalising area for Admiralty Bay marine farms. Both cases have received some Ministry for the Environment - Environmental Legal Assistance (MfE-ELA) funding which is paid directly to lawyers and expert witnesses, but a substantial shortfall in funding has to be met by Friends.

Tasman District Council (TDC)

1. A short history of our court case is as follows:

In May 1996 the Proposed Tasman Resource Management Plan identified certain parts of the district as Landscape Priority Areas (LPAs), and special landscape objectives and policies applied to recognise the important values in these areas. Identifying outstanding natural landscapes and features is a requirement of the Resource Management Act and the N.Z. Coastal Policy Statement of 1994.

On 1 February 1997 the TDC notified Variation 1 to the Proposed Plan removing LPAs from the planning maps and deleting the LPA Rules. On 17 February 1997 Friends lodged a submission to reinstate the LPAs. In March, Friends filed a further submission to protect estuary margins, NW coastline, Farewell Spit and Abel Tasman National Park coastline. In its decisions on the Tasman Resource Management Plan (TRMP), the TDC did not reinstate the coastal LPAs or recognise outstanding landscapes or features in any other way. Essentially the district was left with no landscape identification or protection in coastal areas. Friends then lodged appeals against these decisions.

The TDC responded to the appeal by advising that it would initiate a Variation to address landscape once it had undertaken further study work. However, it took until 2005 for TDC to commission a landscape architect report by Boffa Miskell. This was followed by district wide consultation. The Council then decided to use the report as an ad hoc document only, and not to reinstate LPAs or

initiate any Variation to the Plan to identify important landscapes. Friends Appeal was still live so a new round of Court procedures has resulted. First mediation was attempted, unsuccessfully, then the matter was timetabled for a Court hearing. Friends produced extensive landscape evidence in preparation for the hearing. Other parties had joined the appeal and a preliminary hearing was called to define the matters that would be argued. The appeals then continued towards a timetable for a full hearing.

There has been a lengthy period of negotiation handled ably by Rachel Reese and lawyer Fiona McLeod with support from Department of Conservation (DOC), Forest & Bird and Friends of Golden Bay (these other organisations had joined the appeal to support Friends' case). Ministry for the Environment (MfE) ELA funds (applied for by Friends) have made it possible to hire a lawyer and two expert witnesses – a landscape architect Liz Kidson and a planner Craig Welsh, essential in presenting our case to the Court.

Judge Dwyer's March 2008 preliminary decision states, "Conclusion of these appeals has dragged on interminably since they were filed...(and) Although the landscape study has been carried out the Council has evidently not accepted the recommendations of that study and no relevant variation has been initiated."

Since March when this decision was received, TDC has approached Friends with a settlement offer and after some negotiation this has resulted in the signing of a Side Agreement committing TDC to updating the TRMP to identify and protect landscape values. In return Friends has withdrawn the Appeals. This is a compromise in which a timetable has been established to progress these important issues. The Court has not allowed any application for costs against Friends and the Court files have now been closed.

It is unfortunate that it has taken TDC so long to commit to what they are required to do in law and it has been an extraordinarily expensive process for Friends to secure that commitment. About the only positive results of this whole process has been the creation of two important documents, the Boffa 2005 report and the Liz Kidson 2007 landscape report. The latter was paid for by the MfE via Friends. It uses the "Pigeon Bay Criteria" approved in an Environment Court decision and now incorporated in the Proposed N.Z. Coastal Policy Statement 2008, so provides an excellent framework for all future TDC planning. It has already been put to use in the Golden Bay Strategic Planning below.

2. Friends is represented in the western **Golden Bay Strategic Planning Project** which is using the Liz Kidson 2007 Landscape report.

3. Friends has been supporting initiatives by Forest & Bird, National Council of Women (NCW) and the Ornithological Society to encourage TDC to have a **Waimea Estuary Management Plan**.

4. Our attempt to have some guidelines on appropriate development failed at **Tarakohe, Tata Beach, Ligar Bay, and Pohara** and we had to settle out of court due to technical problems.

5. Three TDC Variations dealing with stormwater management, eastern Golden Bay policies and rural landscape objectives and policies were negotiated for us by Rachel Reese. DOC supported us with

one, Golden Bay Community Board on another and Horticulture NZ opposed us on one.

6. A plan for a 32 **unit motel** complex by Greenacres Golf Club at Best Island was sent to us for comment. A Vermiculture filter tank for effluent is planned so that no eutrophicating elements go to the estuary. Our one suggestion was that cats be banned since the complex is near large shore bird populations.

7. Friends had a representative at the TDC-**Waimea Inlet workshop and field trip** in April 2008 attended by 80 people. The participants were told how estuaries are biodiversity hotspots, provide urban people with access to native bird and plant life in their natural setting and were essential habitat for many commercial and recreational fish species. A Christchurch botanist told of his experience in undoing damage and restoring estuary life to its past productivity resulting in greater numbers and diversity of bird life.

8. The annual **Ministry for the Environment Roadshow** gave an opportunity to meet MfE staff as well as a wide spectrum of local people with environment interests.

Nelson City Council (NCC)

1. Cawthron Institute applied to construct a road on the flank of the **Boulder Bank** to access their aquaculture research lab. Friends put in a submission supporting the local residents (FROG-Friends of the Glen) and gave them the use of our files. Friends played a major role in the 1970s in making people aware of the uniqueness of the geomorphology and biology of the Boulder Bank and having its jurisdiction shifted from the Harbour Board to the Department of Conservation. Apparently the base of the Bank remained in private hands. A hearing was held in September 2007 and the NCC-appointed Commissioner did not allow the road, primarily because the three archeological reports by Cawthron, FROG and DOC agreed the Bank sites should not be disturbed. Cawthron has appealed the decision and we await possible developments.

2. Friends supports a joint presentation with Forest & Bird and National Council of Women advocating a **Waimea Inlet** study to prepare the way for a management plan in cooperation with TDC.

3. Friends maintain a presence at the Port Nelson Environmental Consultative Committee and continue to be concerned that **methyl bromide** continues to be used at Port Nelson, although due to the recent Environment Court decision will now have much improved Nelson City Council Plan controls. Picton stopped fumigation last September following a campaign initiated by Steffan Browning, but it is possible it may begin again under a Code of Practice being formulated by the Environmental Risk Management Authority (ERMA).

4. Friends made a submission on NCC's **Draft Esplanade & Foreshore Reserves Management Plan**. Our concern was with any new infilling of Nelson Haven, which already has 40% converted to land.

5. Friends made a submission on the NCC **Draft Annual Plan** recommending NCC complete work on

its Landscape Priority Areas (LPAs) and Outstanding Natural Feature Landscapes (ONFLs) as required by the Resource Management Act. We learned that NCC had commissioned a Boffa Miskell “**Nelson Landscape Study**” in November 2005 and Forest & Bird was able to obtain a copy by using the Official Information Act.

Marlborough District Council (MDC)

1. The **Admiralty Bay mussel farm** saga continues, with Steffan carrying most of the Marlborough work. Three groups, Admiralty Bay Consortium, Marlborough Aquaculture and MacLab are still vying for increased space as a result of an ambiguous preliminary Court decision. DoC is concerned with the impact on dolphins. University of Texas studies show that some of the same dolphins which sustain Kaikoura dolphin-watching come to Admiralty Bay where they make dramatic pilchard fishballs. Following a preliminary hearing of the Environment Court two years ago, focused on Dusky dolphin habitat, we thought the issue would be resolved, however the marine farmers or their lawyers are still trying for further space. Friends’ concerns are also about the ecology of the Bay, such as flow-on effects of mussels consuming phyto- and zoo-plankton which are the base of the food chain for all animals in the Bay – birds, fish and mammals. We are also concerned about the long-term sustainability of adding more mussel lines. Evidence for both sides is being mustered at present for another Environment Court hearing.

2. **Toll NZ vs MDC on ferry speed** in the Sounds has been concluded. However the remaining “grandfathering” clause allows two unacceptable wave-producing ships to continue indefinitely. Steffan is working closely with Guardians of the Sounds’ Peter Beech on removing the “grandfathering” loophole. The Government buy back from Toll may allow a different approach for change.

3. **Wakatu marine farm applications for eastern Tasman Bay** were negotiated by Friends, resulting in two trial lines being potentially permitted and the extra scientific base line data to be open to public scrutiny. The 800 ha farm permit was refused by Ministry of Fisheries (MoF) and the case was to go to the High Court. This action was avoided and a new application by Wakatu to MoF for the 2 trial lines is being prepared, with a result expected by 2009. If successful this will initiate the 12 months broad ecological baseline study that Friends negotiated. .

4. **Port Gore marine farm.** Steffan has been working closely with resident Cliff Marchant and Forest & Bird to limit expansion. MDC granted Sandford a 10 year license, which Sandford appealed wanting a 35 year permit, and Friends and Marchant appealed the granting mainly on “natural character” grounds. The Environment Court has agreed to await MDC decisions on two other Port Gore applications, before setting a likely appeal hearing, jointly for all three sites, probably in 2009.

5. **Wairau Awatere and Sounds Plan** issues have all been negotiated and signed off.

6. Marlborough Port noise, has had a negotiated settlement through a Court assisted mediation. We signed off after getting more monitoring sites in Picton and Havelock. Steffan has also raised concerns about the inadequate safe guards of handling **methyl bromide** at Shakespeare Bay in Picton, which has for now been discontinued, following the increased community concerns.

7. **Soundsfish** is a fisheries management group initiated by MDC, which Steffan has attended. He feels it has a strong extractive fishery tone (industry, recreational and customary participants), with a disproportionate industry weighting due to the customary participants also having industry links. Steffan hopes to work towards a broader Sounds stakeholder balance including non-extractive users such as conservation and eco-tourism being represented as of right.

General Activities

1. **ECO** (Environmental and Conservation Organisations of New Zealand) an umbrella for over 60 NZ groups had its **national conference** at Riverside in June 2007. Steffan helped organise the conference and Gwen also attended. It was good to see the enthusiasm of many tertiary students in environmental issues.

2. Our **NCC/ TDC Ecofest** stall was shared with Forest & Bird and the Ornithological Society with the Waimea Estuary theme. At the book corner the public could meet Michael North, the author of our history "The Story of Friends of Nelson Haven & Tasman Bay".

3. **Our history**, launched in May 2007, has been sent to school libraries in the top of the South Island. It has been used as background for current coastal cases and as a lead-in to our files, which have more details than the book. An Iwi report on Port dredging used Map 2 of the history. The Glen residents used our files on the Boulder Bank in their Environment Court evidence. The Mapua Fruitgrowers Chemical Company file has been used by a person researching the chemicals affecting people working on the "clean-up" in Mapua- NZ's most toxic site. (The Parliamentary Commissioner for the Environment report on that clean-up has not yet been released.) Gwen and Steffan recently presented the "History" and spoke to the Waikawa Boating Club, a supporting organisation, about aquaculture and fisheries issues in the Sounds.

4. Friends put in a submission on the **Proposed Coastal Policy Statement** 2008. The present NZCPS, written in 1994, was scheduled for review after a decade. It is an invaluable document for the work of our organisation.

5. A biography of Mrs. **Perrine Moncrieff**, a founding member of Friends, has been written by Robin Hodge of Wellington and been submitted for publication

Thanks and Acknowledgements to:

1. The committee members, who make all the above happen. Their competence and reliability, for no direct reward, is amazing.

2. We are very grateful to our membership for their financial and moral support.

3. The Ministry for Environment Legal Assistance Fund has made our Court cases possible. It is not

possible to handle an Environment Court case without professional legal and expert advice and this is expensive, even when there is a pro bono component. There is no doubt, in my mind, that the outcomes are always better for the environment and community than if we'd not been there.

4. Pro bono legal and expert work by legal counsel Fiona McLeod of Anderson Lloyd, Warwick Heal, landscape architect Liz Kidson, and consultant Rachel Reese have been essential. Other experts, such as Danny Boulton of French Pass Sea Safaris and Rob Schuckard gave freely.

5. Nimbus Software, New Zealand Nature Company at 107 Bolt Road, Nelson, the Waikawa Boating Club and the Community Trust for essential financial help, and Konica-Minolta for photocopy access.

6. Thanks also to the Canterbury Community Trust for their on-going essential financial help.

7. The many members of the community whom we work with, including members of Forest & Bird, Ornithological Society, National Council of Women, Guardians of the Sounds, Marlborough Environment Centre, Campaign Against Toxic Sprays, Friends of Golden Bay and staff of TDC, NCC and MDC.

Respectfully submitted,

Dr. Gwen Struik (co-chair)