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Section 32 Evaluation

PROPOSED VARIATION 1A: FINFISH MARINE FARMING PROVISIONS FOR THE PROPOSED
MARLBOROUGH ENVIRONMENTAL PLAN (PMEP)

Prepared for Marlborough District Council

November 2020



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1 Introduction to s32 and proposed Variation 1A

Perception Planning Limited prepared this report on behalf of Marlborough District Council (the Council, MDC) under Section 32 of the Resource Management Act 1991. The report summarises our s32 evaluation of **Proposed Variation 1A: Finfish Marine Farming** (proposed Variation 1A) for the Proposed Marlborough Environmental Plan (PMEP, the Plan).

Section 32 of the RMA requires councils to assess any proposed regional plan change to determine:

- The extent to which the objectives are the most appropriate way to achieve the purpose of the RMA, and
- Whether the proposed policies and methods are the most appropriate way in which to achieve the objectives, in terms of their efficiency and effectiveness.

This report should be read in conjunction with **Proposed Variation 1: Marine Farming**.

1.1 Abbreviations and definitions in this report

Table 1: Abbreviations used in this report

AMA	Aquaculture Management Area
CMU	Coastal Management Unit
DOC	Department of Conservation
FAMA	Finfish Aquaculture Management Area
NZCPS	New Zealand Coastal Policy Statement
MPI	Ministry for Primary Industries
MRMP	Marlborough Sounds Resource Management Plan
PMEP	Proposed Marlborough Environmental Plan
RMA or the Act	Resource Management Act
RPS	Regional Policy Statement
WARMP	Wairau/Awatere Resource Management Plan

1.1.1 Finfish definition

For the purposes of this report, the term ‘finfish’ refers to any fish with fins, to distinguish them from other kinds of fish that are farmed in the Marlborough sounds, especially shellfish.

1.1.2 Marine farming definition

For the purposes of this report, the terms ‘marine farming’ and ‘aquaculture’ are used interchangeably. ‘Aquaculture activities’ are defined in Section 2 of the RMA and include the occupation of the coastal marine area for breeding, hatching, cultivating, rearing, or on-growing of fish, aquatic life or seaweed for harvest. Proposed Variation 1 (which should be read alongside proposed Variation 1A) includes a new definition of ‘marine farm’ for the PMEP:

“**Marine Farm** means a single contiguous spatial area used for aquaculture activities (as defined in Section 2 RMA) that has or requires a coastal permit for the occupation of the coastal marine area and which may also have or require coastal permits that authorise one or more of the following activities: the erection, placement, and use of any structures for aquaculture; and any associated disturbance of the foreshore and seabed, and ancillary deposition or discharges in the coastal marine area. Marine farming has the related meaning”.

The proposed finfish farming provisions do not cover aquaculture on land or within freshwater environments.

1.1.3 Section 32 RMA requirements

Under section 32 of the RMA, any proposed regional plan change must be accompanied by a report that assesses:

- The extent to which the objectives are the most appropriate way to achieve the purpose of the RMA; and
- Whether the proposed policies and methods are the most appropriate way in which to achieve the objectives, in terms of their efficiency and effectiveness.

A s32 evaluation must:

- Identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for:
 - economic growth that are anticipated to be provided or reduced; and
 - employment that are anticipated to be provided or reduced; and
- If practicable, quantify the benefits and costs referred to above; and
- Assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.

Section 32, clause 4A requires the evaluation report to include a summary of all advice concerning the proposal from iwi authorities. It also must include the Council’s response to the advice, plus any proposed provisions that are intended to give effect to the advice.

1.2 Finfish farming is an important issue for the coastal plan review

Under the New Zealand Coastal Policy Statement (NZCPS), Council is required (through the Regional Policy Statement (RPS) and/or regional coastal plan) to provide and regulate space for aquaculture (which includes finfish farming), in recognition of its contribution to social, economic and cultural wellbeing¹. Like other forms of aquaculture, there are unique challenges with this, because the coastal marine area is a public good. There is increasing competition in the enclosed water sounds for use (and protection) of this space by other users. The Council also needs to make sure any adverse effects of finfish farming on the environment and other values are addressed. The effects of finfish farming are becoming increasingly understood, and as a result there is a need to adjust management responses.

Proposed Variation 1A is influenced by (and a response to) two important processes that have recently taken place:

- A proposal by the Minister for Primary Industries to amend the MSRMP to relocate salmon farms in the Marlborough Sounds; and

¹ NZCPS Policy 8

- The drafting and implementation of the National Environmental Standards for Marine Aquaculture (*NES: Marine Aquaculture*) which came into force on 1 December 2020.

1.3 How the salmon relocation proposal relates to Variation 1A

In April 2017, the Ministry for Primary Industries released a proposal to amend the MSRMP to enable the relocation of six salmon farms. The regulations they proposed to amend the MSRMP were made under section 360A of the Resource Management Act (RMA).

The Minister for Primary Industries appointed a Marlborough Salmon Farm Relocation Advisory Panel ('the Salmon Relocation Panel') to provide him with independent advice on the proposal. The Panel held public hearings, met with iwi and submitters, and reviewed expert research reports.

In July 2017, the Salmon Relocation Panel prepared an independent report and recommendations² for the Minister for Primary Industries. In the report, the panel recommended that three farms in Waihinau, Otanerau and Ruakaka Bay be relocated to Tio Point, Horseshoe Bay, and Richmond Bay South.

The Salmon Relocation Panel proposed that consents for the sites Waihinau, Otanerau and Ruakaka Bay be surrendered.

The Minister for Primary Industries has not chosen to proceed with the change to the MSRMP at this time.

Proposed Variation 1A draws on much of the technical expertise and research that informed the Panel's report. This is the most current information on finfish farms.

Proposed Variation 1A follows the Panel's recommendations about the future locations of finfish aquaculture by creating Finfish Aquaculture Management Areas in Tio Point, Horseshoe Bay, and Richmond Bay South and not creating them at the existing sites at Waihinau, Otanerau and Ruakaka Bay.

1.4 Why proposed Variation 1A is being notified separately to the PMEP and Proposed Variation 1

The Council started reviewing its operative resource management framework in 2009, which includes these documents:

- the Marlborough Regional Policy Statement (Operative 28 August 1995) (RPS)
- the Marlborough Sounds Resource Management Plan³ (Operative in part 2003, Operative in full August 2011) ('MRMP')
- the Wairau/Awatere Resource Management Plan (Operative in full August 2011) ('WARMP').

These documents are being replaced by the Proposed Marlborough Environmental Plan (PMEP).

The process has involved extensive consultation with the marine farming industry, other parties with an interest in Marlborough's coastal marine area and the wider community. The decision on the PMEP was notified and the appeal period closed on the 8 May 2020.

² Report and Recommendations of the Marlborough Salmon Farm Relocation Advisory Panel. Prepared for the Minister for Primary Industries. July 2017.

³ A combined district, regional and regional coastal plan.

Proposed provisions to enable marine farming and manage the potential adverse effects were prepared but not notified with the rest of the PMEP, because the Council decided more work was needed to give adequate effect to Policy 8 of the NZCPS. Policy 8 of the NZCPS requires councils to provide for aquaculture activities in appropriate places in the coastal environment. 'Appropriate places' are to be defined in regional policy statements and regional coastal plans.

Instead, the Council restarted the review process and developed an aquaculture framework which is being incorporated into the Plan via three proposed variations (1, 1A and 1B).

Proposed Variation 1: Marine Farming - This is the main variation. It adds objectives, policies and rules about how marine farming activities will be sustainably managed in the district. It manages these activities using Coastal Management Units (CMUs) and an overlay of Aquaculture Management Areas (AMAs). The provisions were developed with mussel farms in mind but are equally applicable to other bivalves such as oysters, and to species such as seaweed (but not to finfish). The provisions refer to the use of typical mussel farming structures such as longlines.

There are two smaller variations alongside Proposed Variation 1:

Proposed Variation 1A: Finfish Farming – specifically addresses finfish farming. The provisions in proposed Variation 1A rely on certain keystone provisions in proposed Variation 1, building on and amending these to be specific to finfish. A slightly different approach is needed because finfish farms require different structures and the addition of feed.

Draft Variation 1B: Apex Marine Farm - adds an Aquaculture Management Area in Onapua Bay only. The Onapua Bay AMA will be mainly managed by the provisions in proposed Variation 1, with some minor amendments to provide specifically for this AMA and the activities proposed to occur in it. Variation 1B is in draft form, with consultation currently taking place. The Council intends to make a decision about this variation next year.

1.5 Proposed Variation 1A will add provisions to the PMEP to manage finfish farming

The purpose of proposed Variation 1A is to:

- Introduce policies and rules that are tailored to managing finfish farming in the Marlborough Sounds;
- Provide a level of certainty as to how finfish farming will be managed in the future
- Clearly articulate where finfish farming is or is not appropriate in the Sounds⁴.

The Proposed Variation 1A was developed with the following parameters:

- The enclosed water (inner) Sounds are at full capacity for finfish marine farms.
- Suitable new space to grow finfish in the Marlborough Sounds is extremely limited.
- There should be a focus on reducing or ceasing finfish farming in low flow areas of the enclosed water Sounds.
- Existing farms in inappropriate locations should be relocated, to reduce effects on other coastal values (like amenity, recreation, landscape, ecology).

⁴ In accordance with Policy 8 of the NZCPS and as required by the NES: Marine Aquaculture.

- Any future capacity for finfish farming is likely to be in the open water (outer) Sounds.

2 The current framework for managing finfish farming in Marlborough

2.1 The policies and legislation that guide proposed Variation 1A

Proposed Variation 1A has been guided and directed by the higher level statutory and policy framework. This includes the RMA and documents prepared under it. That framework is also relevant for this report⁵. This chapter (and supporting Appendices 3 and 4) identifies the key components of the statutory and policy framework and their influence on the development of the aquaculture variations. Proposed Variation 1A is also strongly influenced by the recent planning processes (the NESMA and the MPI salmon relocation process).

2.2 Proposed Variation 1A must help achieve the objectives in the PMEP

The provisions in proposed Variation 1A must be assessed to determine whether they are the most appropriate way to achieve the objectives in the PMEP, including any new objectives being introduced through Proposed Variation 1.

Table 2: The PMEP objectives relevant to proposed Variation 1A

PMEP chapter (Volume 1)	Objectives	Relevance to proposed Variation 1
03: Marlborough's Tangata Whenua Iwi	Objectives 3.1 - 3.4, 3.6	These objectives signal that any framework to manage aquaculture must have particular regard to the relationship of Marlborough's tangata whenua iwi with the coastal environment, including wāhi tapu and other sites and taonga, and that this relationship must be recognised and provided for.
04: Sustainable Management of Natural and Physical Resources	Objectives 4.1, 4.3.	These objectives recognise the multiple values of the natural resources of the Sounds, and the need to balance social, economic, cultural, and environmental wellbeing when making decisions on the use of such resources.
06: Natural Character	Objective 6.1, 6.2	Once natural character of the coastal environment has been identified, it must be preserved and restored and protected from inappropriate development.
07: Landscape	Objective 7.1, 7.2	Marlborough's identified outstanding natural features, outstanding natural landscapes and high amenity landscapes must be protected (where they are outstanding) from

⁵ Section 360A of the RMA is also relevant to this Section 32 report. Section 360A provides that the Governor-General may amend provisions in a regional coastal plan that relate to the management of aquaculture in the coastal marine area. Such amendments become part of the operative plan.

PMEP chapter (Volume 1)	Objectives	Relevance to proposed Variation 1
		inappropriate development. High amenity landscapes must be maintained and enhanced.
08: Indigenous biodiversity	Objectives 8.1, 8.2	These objectives have a strong direction to protect existing marine biodiversity and restore or improve the condition of degraded areas.
09: Public Access and Open Space	Objectives 9.1, 9.2	These objectives recognise the importance of maintaining public access to the coastal environment, and that the reasons for limiting such access must be restricted to certain purposes.
10: Heritage Resources and Notable Trees	Objective 10.1	Heritage resources should be retained and protected.
13: Use of the Coastal Environment and the Allocation of Coastal Space	Objective 13.1 – 13.3, 13.6, 13.7, 13.10, 13.12a, 13.14, 13.15, 13.17, 5.13.M	<p>These objectives recognise the need to establish appropriate limits or no-go areas in the coastal environment, in order to manage adverse effects.</p> <p>Recreational activities make a significant contribution to health and wellbeing, and the economy, but also come with adverse effects, which must be managed. The same applies to use of the coastal marine area for transportation.</p> <p>The disposal or deposition of unwanted material into the coastal marine area must be managed.</p> <p>The coastal marine area is a public space. Occupation of that public space for private gain must be sustainably allocated and managed.</p>
17: Transportation	Objective 17.4	Conflicts between land uses and the land transport network must be managed.
19: Climate Change	Objective 19.1, 19.2	These objectives recognise the need for adaptation to the adverse effects of climate change.

Proposed Variation 1A would amend the PMEP and not the operative plans

Proposed Variation 1A seeks to amend the PMEP, not the operative planning framework (the operative RPS/plans) - because that framework has already been reviewed and proposed to be replaced by the PMEP. This means the s32 evaluation of the appropriateness of the proposed variation provisions in achieving the objectives of the RPS/plans is also focused on the PMEP. The provisions in the operative RPS/plans are still important to this

evaluation, because they represent the 'status quo'⁶, because the PMEPP does not currently include any provisions to manage finfish farming; and

3 Who was consulted during proposed Variation 1A development

3.1 Legislative Requirements

Schedule 1(3) of the RMA specifies who the Council must consult in the preparation of a plan, including any variation to a plan. Clause 3B sets out how that consultation with iwi authorities should be undertaken.

Section 32(4A) of the RMA requires this report to provide a summary of all advice received from iwi authorities on the Variation and how the Variation responds to that advice, including through proposed provisions.

3.2 Statutory Consultation

The Council has undertaken consultation with the following parties:

⁶ The degree of change between the existing framework in the RPS/MSRMP/WARMP and the proposed new framework (Proposed Variation 1A) has been considered in determining the scale and significance of the proposals under section s32(1)(c) RMA. This analysis (summarised in Chapter 9 and set out in Appendix 2) has informed the depth of examination in this report.

Table 3: Who was consulted while we developed proposed Variation 1A

Consultee	Consultation undertaken	Issues raised	Council's response
<ul style="list-style-type: none"> • Ngāti Apa ki te Rā Tō Trust • Ngāti Koata Trust • Ngati Toa Rangatira Manawhenua Ki Te Tau Ihu Trust • Te Ātiawa o Te Waka-a-Māui Trust • Te Rūnunga a Rangitāne o Wairau • Te Rūnunga o Ngāti Kuia • Te Rūnunga o Ngāti Rārua 	See section 3.2.1 below.		
Minister for the Environment	Minister for Environment formally consulted during the preparation of the Variation.	No response was received.	
Ministry of Transport	Minister of Transport formally consulted during the preparation of the	No response was received.	

	Variation.		
Department of Conservation	<p>Ongoing discussions during development.</p> <p>Minister of Conservation formally consulted during the preparation of the Variation.</p>	<p>Earlier comments provided continue to apply with respect to Variation 1A.</p> <p>It was noted that since earlier comments had been received, the NES for Marine Aquaculture had been gazetted. Once the variations are publicly notified, a more detailed review will be undertaken, and it is likely a submission will be lodged on behalf of the Minister of Conservation.</p> <p>It was noted that in earlier correspondence, it encouraged the inclusion of provisions for finfish. The Department of Conservation expressed its appreciation that this suggestion has been taken on board, in part.</p>	
Minister of Fisheries / Ministry of Primary Industry		The Minister is satisfied with the provisions and approach.	Ongoing liaison to keep the Minister briefed of any developments.

3.2.1 Summary of advice from Iwi and the response to that advice

Te Ātiawa o Te Waka-a-Māui Trust were the only iwi authority to provide a response when consulted on the draft finfish variation.

Te Ātiawa expressed that they have a number of concerns in relation to the finfish variation, which include:

- The provisions have relied on the outcomes of central government action around the NZKS model and not widely explored the broad proposition.
- Due to the volume of waste generated, fin fish farming should involve a closed-system, so that waste impacts on both the water column and benthos are eliminated.
- NZKS is still failing to meet the terms of some of its various consents. At the very least, there should be a fallowing /recovery year, applied to offset impacts. Otherwise, the necessary quest for net improvement to the mauri of the Rohe is being ignored / compromised.

The Council carefully considered the advice received from Te Ātiawa. The proposed Variation 1A includes measures to monitor and manage finfish farms so that adverse effects are appropriately managed. In the future this may include measures such as fallowing if necessary to manage the adverse effects. The Council is satisfied it used the best available information in deciding on the spatial allocation and provisions for finfish farming, and that net benefits to Te Taiao will result from the relocation of some farms and the better monitoring and management of all finfish farms.

3.2.2 Input from Council Staff

Proposed Variation 1 was developed with the expert assistance of the Council's:

- harbour master (navigational and safety issues)
- a coastal scientist (who led and convened the TAG)
- policy specialists, and
- administrative and GIS technicians.

3.2.3 Engagement with key stakeholders

No specific engagement with key stakeholders has taken place. The issues were well canvassed through the MPI salmon relocation process and no new information has come to light since that process, which requires further engagement. The MPI worked with the Marlborough Salmon Working Group to develop the MPI plan change. The work of that group (which included MPI, DOC, MDC, Te Tau Ihu Iwi Forum, NZKS, Aquaculture New Zealand and local community interest groups) is documented in the MPI report.

4 The key questions that proposed Variation 1A seeks to address

Identifying where finfish farming is appropriate and where it is not as proposed by Variation 1A requires the Council to consider and answer some key questions:

- 1) What are the potential effects of providing for finfish farming and how should these impacts be managed?

- 2) Given what we know about the effects, where are the appropriate places to locate finfish farms in the Sounds?
- 3) How should the rights to occupy those spaces be fairly allocated?
- 4) How much finfish farming will be provided for in the Marlborough Sounds as a result?

This section looks at these questions and why they are important. The proposed provisions are set out in Chapter 5. Alternative options to resolve these questions have also been considered (where appropriate). The alternative approaches which were not progressed, and why, are covered in more detail in Chapter 6.

4.1 What are finfish farming impacts, and how should they be managed?

The Council has a much better understanding of the impacts of salmon farms following the release of Best Management Practice Guidelines for water quality and the MPI Salmon Relocation process. The key environmental impacts can be divided into effects on the water column, and on the seabed.

4.1.1 Effects on the water column

Salmon are farmed in sea pens, where they are fed and raised until they are ready for harvest. The addition of feed, and the waste products that fish create, make salmon farms nutrient-rich environments and sources of soluble nitrogen and organic matter (plant and animal debris). Excessive amounts of soluble (able to be dissolved) nitrogen in the water column can cause increases in primary productivity or nutrient enrichment, which can lead to eutrophication and excessive algae growth. In a worst-case scenario there is the potential for harmful algal blooms, which can have toxic effects on people and ecological communities.

The respiratory (breathing) activity of salmon can also reduce the levels of dissolved oxygen⁷ at the sea pen. These impacts diminish rapidly with distance, due to mixing with distant waters.

In 2012, a Board of Inquiry determined conditions for three new salmon farms in the Marlborough Sounds (owned by NZ King Salmon). The conditions required numerical thresholds, or 'interim water quality standards' (WQS), to be set for ecologically important water column attributes: chlorophyll-*a*, total nitrogen and dissolved oxygen.

As a result, a working group prepared the Best Practice Management Guidelines⁸ to provide a central set of WQS, and requirements for monitoring and managing potential water column nutrient enrichment from salmon farms in the Marlborough Sounds. The intent is that if WQS thresholds are exceeded, this sparks a management response that requires more monitoring.

The monitoring described in these guidelines is limited. It is designed to detect symptoms that might be consistent with nutrient-enrichment effects. It will not determine a *cause* for those symptoms, however. The guidelines are based on the best information currently available, and it is hoped that scientific methods will improve over time to clarify the relationship between water column effects and finfish farming.

Council currently monitors chlorophyll-*a*, total nitrogen, and dissolved oxygen as part of their State of the Environment monitoring.

⁷ A measure of the amount of oxygen in the water.

⁸ Best Management Practice Guidelines for salmon farming in the Marlborough Sounds – Part 2: Water quality standards and monitoring protocol. October 2019

Proposed Variation 1A includes a policy⁹ that requires parameters to be monitored, to measure potential effects on the water column. The policy is flexible in that it does not identify specific parameters to be measured. This means that Council can respond to the evolving scientific evidence on water column effects.

4.1.2 Effects on the seabed

The main effect that salmon farming has on the seabed is over-enrichment beneath the farm due to faeces and uneaten feed falling to the seafloor¹⁰. This is often associated with an increase in microbial activity, which can alter the chemistry and ecology of the seafloor beneath the farm. Excessive enrichment can cause changes to well-aerated and species-rich soft sediments inside or close to sea pens, resulting in oxygen-depleted (anoxic) zones. In anoxic zones, only a few sediment-dwelling species that are tolerant of the degraded conditions can survive. In extreme cases, excessive enrichment can lead to conditions where the seabed is completely devoid of life. The type of animals living within the sediment (infauna) will also change – diversity decreases, and the numbers of a few common opportunistic species increases.

The ‘depositional footprint’ of a typical finfish farm extends tens to hundreds of metres from the sea pens. Effects tend to be most evident directly beneath the farm and decrease rapidly with increasing distance.

Other potential effects that salmon farming can have on the benthic environment include:

- **Biofouling drop-off and debris:** When benthic organisms accumulate on submerged structures, they then fall to the seabed naturally or when the nets are cleaned.
- **Seabed shading by structures:** This can reduce the productivity of ecologically important primary producers such as benthic microalgae, or beds of macroalgae or eelgrass
- **Widespread bio-deposition:** Nutrient enrichment at a much greater scale, due to suspension and transportation of organic matter.

As advances were made in both the knowledge and certainty surrounding the effects of salmon farms on the seabed, the need for consistent requirements for benthic monitoring of marine farms became apparent. As a result, the *‘Best Management Practice Guidelines for salmon farming in the Marlborough Sounds: Benthic environmental quality standards and monitoring protocols’* (known as the ‘Benthic Guidelines’) were developed in 2014 as a collaborative process between local and central government, industry, scientists and the local community. A revised version of these guidelines was published in 2019¹¹.

The key element of the Benthic Guidelines is the use of Environmental Quality Standards, which provide environmental ‘bottom lines’ against which effects can be assessed. The primary standard is Enrichment Stage (ES), which is an indicator for organic nutrient enrichment. Enrichment Stage is a multi-variable indicator, which combines sulfide readings with analysis of benthic community structure and organic matter levels. It provides a picture of the biological and chemical responses to the rate and concentration of organic loading onto the seafloor.

There are seven enrichment stages along a continuum, from pristine, untouched conditions (ES 1.0) to extremely enriched conditions (ES 7.0) where the benthic environment cannot support macrofauna. Although

⁹ Policy 13.22.10 – Managing adverse effects of finfish farms

¹⁰ OVERVIEW OF ECOLOGICAL EFFECTS OF AQUACULTURE

¹¹ Keeley, N; Gillard, M; Broekhuizen, N; Ford, R; Schuckard R; Ulrich S. 2019. Best Management Practice guidelines for salmon farms in the Marlborough Sounds: Benthic environmental quality standards and monitoring protocol (Version 1.1 January 2018). New Zealand Aquatic Environment and Biodiversity Report No 219. Prepared for Fisheries New Zealand by the Benthic Standards Working Group.

ES 1.0 represents the pristine end of the spectrum, in many situations the seabed can be naturally enriched, including in the Marlborough Sounds where much of the seabed has enrichment stages of up to 2.5¹².

At ES 5.0, species diversity has declined and the abundance of seabed life such as worms and nematodes is at its maximum. Over ES 5.0 means the seabed receives too much organic matter, which may reduce the availability of oxygen in the seabed sediments. Too little oxygen and too many sulphides can lead to an anoxic environment, which can be hostile for marine invertebrates¹³.

The Benthic Guidelines state that an ES of 5.0 must not be exceeded in the zone of maximum effect (at the sea pen edge). This is reflected in Policy 13.22.10 of proposed Variation 1A. At this level, the benthos is still considered biologically functional and this level is often associated with the greatest benthic biomass.

An ES 3.0 must not be exceeded in the outer limit of the effects (150-600 metres away from the sea pen). An enrichment stage of 3.0 represents moderate enrichment of the benthos. Monitoring the 'outer limit of effects' provides a checkpoint for the measurable footprint of the salmon farm, as it represents 'natural' conditions. It also provides reassurance that the effects have not expanded beyond the agreed distance (which depends on whether the farm is at a low or high flow site).

Proposed Variation 1A requires salmon farms in the Marlborough Sounds to adopt an adaptive management regime consistent with this guidance. This means salmon farms are developed, monitored, and managed in a precautionary manner.

Adaptive management and the precautionary approach

The use of Environmental Quality Standards, and Enrichment Stage as an indicator for nutrient enrichment at the seabed, is seen as an example of an adaptive management approach. The ES thresholds represent acceptable limits. If these are exceeded, they spark a management response to reduce adverse effects so that the measured effects get below threshold levels within a defined period of time.

The adaptive management regime in the Benthic Guidelines was adopted by the MPI salmon relocation proposal. The Salmon Relocation Panel concluded that this adaptive management regime aligns with the BOI thresholds, which were approved by the Supreme Court. They considered it appropriate for addressing water quality issues, and in line with the precautionary approach required under Policy 3 of the New Zealand Coastal Policy Statement.

The Council has adopted an adaptive management approach because they acknowledge that some effects are managed better by a process that responds to information as it becomes available, rather than waiting for a perfect understanding of all effects. As described above, this approach is consistent with Policy 3 of the NZCPS¹⁴, which states that a precautionary approach should be adopted for proposed activities whose effects on the coastal environment are uncertain, unknown, or little understood, but potentially significantly adverse.

¹² Keeley, N; Gillard, M; Broekhuizen, N; Ford, R; Schuckard R; Ulrich S. 2019. Best Management Practice guidelines for salmon farms in the Marlborough Sounds: Benthic environmental quality standards and monitoring protocol (Version 1.1 January 2018). New Zealand Aquatic Environment and Biodiversity Report No 219. Prepared for Fisheries New Zealand by the Benthic Standards Working Group.

¹³ Marlborough Salmon Working Group Advice to the Minister of Aquaculture, 23 November 2016, p. 12

¹⁴ New Zealand Coastal Policy Statement 2010 <https://www.doc.govt.nz/globalassets/documents/conservation/marine-and-coastal/coastal-management/nz-coastal-policy-statement-2010.pdf>

4.2 Where are the appropriate places to locate finfish farms in the Sounds?

The Council has considered the latest information on the effects of finfish farming, the guidelines that have been developed and the recent MPI salmon relocation proposals. Proposed Variation 1A is very specific about where finfish farms are or are not appropriate, and some 'finfish aquaculture management areas' (FAMAs) have been identified. These are the only areas which are considered appropriate for finfish farms.

The FAMAs are located:

- Over existing finfish farms in high flow areas
- In high flow sites identified through the MPI plan change process for the relocation of the three farms in low flow sites
- In a single low flow site that was identified for relocation during the MPI process, but the alternative site for its relocation was not deemed suitable (due to issues with navigation, landscape, and iwi values)

No other areas have been identified in the enclosed waters of the Marlborough Sounds. Variation 1A provides for applications for finfish marine farms to be made in the open waters of Marlborough.

4.2.1 How did the Council decide where to locate Finfish Aquaculture Management Areas?

In lower flow areas, the addition of fish feed into sea pens coupled with the waste products that farmed fish create can lead to a greater level of seabed deposition and nutrient enrichment beneath the farm. If the seabed receives too much organic matter, this can cause oxygen depletion. Too many nutrients at the seabed can also result in algal blooms.

In higher flow areas, the well-flushed environment can lead to less localised enrichment of the seabed through resuspension, dilution and dispersal of the nutrients that were deposited. Locating finfish farms in higher flow areas results in fewer adverse effects on water quality.

There are currently 12 consented finfish farms in the Marlborough Sounds (see Figure 1) located in the following places:

- Waihinau Bay
- Otanerau Bay
- Ruakaka Bay
- Forsyth Bay (farming is still being undertaken, however has been followed long term)
- Crail Bay (two sites) (have not been farmed since 2011)
- Waitata Reach
- Kopaua
- Ngamahau Bay
- Beatrix Bay
- Clay Point

- Te Pangu Bay

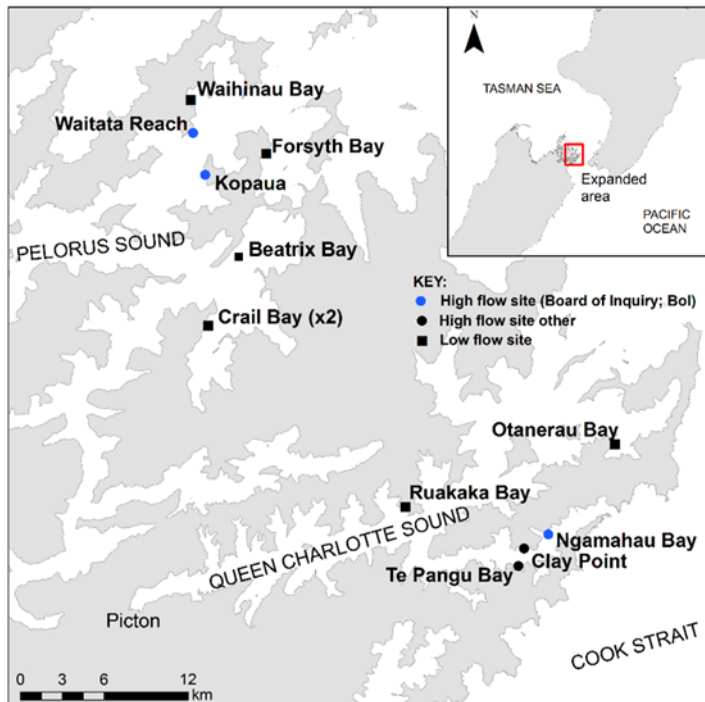


Figure 1 Location of 12 consented farms in the Marlborough Sounds at present (Source: Best management practice guidelines for salmon farms in the Marlborough Sounds – Part 2: Water quality standards and monitoring protocol)

4.2.1.1 Low flow sites

Three consented and operational salmon farms in Waihinau, Otanerau and Ruakaka Bay are all located in low flow areas and are having adverse effects on the environment. At current production rates, these salmon farms are not able to achieve the requirements set by the Benthic Guidelines.

This led to the MPI plan change recommendation to relocate these salmon farms to higher flow areas, where these adverse effects on water quality would be lessened.

Three more consented salmon farms are located in low flow areas; one in Forsyth Bay, and two in Crail Bay. These low flow sites were identified for relocation as part of the MPI Salmon Relocation process, however suitable sites for their relocation have not yet been identified due to issues with navigation, landscape, and iwi.

The farm in Forsyth Bay has been fallowed because its benthos is degraded. This site has encountered problems maintaining an ES level below 5 as required by the Benthic Guidelines. The Salmon Relocation Panel noted their expectation that salmon farming activity at Forsyth Bay would likely involve only lower intensity, temporary smolt holding.

Based on the recommendations of the Salmon Relocation Panel, Council has created a Proposed FAMA over the Forsyth Bay site. Finfish farming at this site is considered appropriate if the benthic effects can be managed so that the ES level of 5 is not exceeded. Finfish farming at this site will therefore be managed and constrained by the requirements of the Benthic Guidelines.

The two Crail Bay sites have not been farmed since 2011. Given the low flow nature of these sites, it is considered that there would be considerable issues farming these sites so that they comply with the Benthic Guidelines. It is therefore considered that a Finfish farming is inappropriate in those locations, and a Finfish AMA is not proposed over these two sites. This means that authorisations for marine farming in these locations will not be offered, and finfish farming will not be able to continue there after the current resource consents expire.

Waitata Reach, Kopaua and Ngamahau Bay are three high flow sites which were the subject of the Sustainably Growing King Salmon plan change proposal. This proposal was lodged with the Environmental Protection Agency (EPA) because it was deemed to be a proposal of national significance. The proposal was considered by a Board of Inquiry and as a result, the three salmon farms at the Waitata Reach, Kopaua and Ngamahau Bay sites were granted consent. The consents include a suite of conditions which take a strict adaptive management approach and require the farms' operations to meet certain environmental quality standards. So far, no adverse effects on water quality have been observed at these sites. Based on current knowledge, the Council considers that salmon farming in these areas remains appropriate.

The remainder of the consented sites, located in Beatrix Bay, Clay Point and Te Pangu Bay, are proposed to remain where they are. These farms have not been identified as having adverse effects on the environment that are outside the parameters identified in the existing consents. It is the Council's view that it is appropriate to provide for salmon farms in these locations.

These decisions have resulted in ten Finfish Aquaculture Management Areas (FAMAs) being identified in proposed Variation 1A.

Finfish Aquaculture Management Area locations

Seven of these FAMAs are located where salmon farms are already established, in the following Coastal Management Units (CMUs):

- Forsyth Bay, within the Forsyth Bay CMU
- Waitata Reach, within the Waitata Reach CMU
- Kopaua, within the Waitata Reach CMU
- Ngamahau Bay, within the Tory Channel CMU
- Beatrix Bay, within the Beatrix Bay CMU
- Clay Point, within the Tory Channel CMU
- Te Pangu Bay, within the Tory Channel CMU

The other three FAMAs will be made for relocated salmon farms. These will be located in the following Coastal Management Units (CMUs):

- Tio Point, Oyster Bay in the *Tory Channel CMU*
- Richmond Bay South in the *Waitata Reach CMU*
- Horseshoe Bay in the *Maud Island CMU*

4.3 How are the rights to occupy FAMAs allocated?

Proposed Variation 1 (the main Aquaculture variation) introduces an authorisation allocation methodology to the PMEP. The methodology includes AMAs, which have been identified as appropriate locations for mussel farms. Proposed Variation 1A adds clauses to the PMEP to identify that authorisations will also be issued for finfish farms, and these will only be allocated for space within Finfish AMAs (FAMAs).

The methodology for identifying FAMAs is set out in the proposed amendments to Policy 13.21.7. The methodology is consistent with the advice to the Minister on the relocation of salmon farms undertaken as part of the s360 regulation review of the Sounds Plan in 2018. Nine of the twelve FAMAs cover areas where there are existing finfish farms, which will remain where they are. The existing marine farms at Tio Point, Richmond Bay South and Horseshoe Bay will be allocated authorisations to relocate to the FAMAs at Oyster Bay in the Tory Channel CMU, Waitata Reach CMU, and Maud Island CMU.

Existing finfish farms that have not been allocated space in a FAMA (the two low flow farms sites at Crail Bay) can remain on their current sites until their existing consent expires. They may choose to apply to occupy space in the open water CMU in the future. If for any reason a finfish farm does not take up the opportunity to occupy space in a FAMA, the Council will consider allocating space in that location to a non-fish farm via public tender.

4.4 How much finfish farming will be provided for in the Marlborough Sounds?

The way FAMAs have been allocated means that there will be fewer finfish farms in the enclosed waters of the Marlborough Sounds in the future. This reflects the findings of the Marlborough Salmon Working Group, which was convened in 2016 by MPI¹⁵. That group looked at options to achieve the Benthic Guidelines and to ensure the sustainability of salmon farming in Marlborough.

The Salmon Working Group considered a range of options, which included:

- reducing stocking levels (and associated feed levels) at existing lower-flow farms;
- waste capture;
- seabed remediation;
- improving feed efficiency;
- land-based aquaculture;
- offshore farming; and
- relocation.

The Salmon Working Group agreed that relocating salmon farms from lower flow sites to higher flow sites may enable compliance with the Benthic Guidelines without compromising the farms' operational and commercial viability.

More information about the options considered for the amount and location of finfish farms is set out in Chapter 6.

¹⁵ Supported by NZKS and MDC

5 Summary of the proposed aquaculture provisions

5.1 An overview of the proposed provisions

Proposed Variation 1A: Finfish farming introduces new provisions to the PMEP to manage finfish farming in the District. The proposed Variation 1A will amend the new authorisation allocation policy in proposed Variation 1, so that it provides for finfish as well as bivalves. A new policy will be inserted into the RPS on managing the adverse effects of finfish farms, and a new policy will be inserted into the coastal plan to deal with reviewing conditions on existing finfish farm consents (so these can be managed consistently using the new environmental bottom lines). New rules will be inserted into the coastal plan to deal with the allocation of space for finfish farms and a restricted discretionary rule to manage finfish farm activities. The definitions will be amended to include a definition of a Finfish AMA (FAMA). The zoning maps will be modified with an overlay to show the location of the FAMAs.

Outside of Finfish Aquaculture Management Areas, in the enclosed waters of the Sounds, finfish farming is proposed to be a prohibited activity. In the open water Coastal Management Units all aquaculture, including finfish farms, is proposed to be a discretionary activity.

Table 4: How proposed Variation 1A will amend the PMEP

Volume	Chapter	Content	How proposed Variation 1A will amend the PMEP
Volume 1 (Objectives and policies)	13: Use of the Coastal Environment and Allocation of Coastal Space	Objectives and policies for the Coastal environment	New policies specifically for finfish marine farming. Some amendments will be made to the proposed authorisation allocation methodology policy in Variation 1, which is the main aquaculture variation.
Volume 2 (Rules)	16. Coastal Marine Zone	Rules	Specific rules for finfish marine farming.
	25. Definitions	Definitions	Amend the definition of AMA and include a new definition of Finfish AMA.
			-
Volume 4 (Zoning Maps)	Planning Maps	Zoning Maps	The proposed Variation will add: - an overlay of FAMAs.

5.2 A detailed look at the proposed provisions

5.2.1 Policies to be added to the PMEP

Proposed Variation 1A will insert new policies to achieve the new objectives in Proposed Variation 1. The new policies explain and set up the framework for the rules.

Policy	What the policy covers	Explanation
Policy 13.21.7 authorisation allocation methodology and supporting explanation	<p>This Proposed Variation inserts new clauses that authorisations for finfish farms will only be allocated for space within FAMAs. The methodology is set out for the allocation of space within FAMAs.</p> <p>Allocated space which is not taken up by a finfish farm may be allocated to a non-finish farm.</p> <p>An additional paragraph is inserted into the explanation to explain the allocation methodology for FAMAs.</p>	<p>The policy sets out the framework in which existing finfish farms will be allocated space in a FAMA. The allocation is consistent with the advice to the Minister on the relocation of salmon farms undertaken as part of the s360 regulation review of the Sounds Plan in 2018.</p>
Policy 13.22.10	<p>Any finfish or other marine farm resource consent which will discharge feed will be subject to conditions to monitor and manage the effects of this discharge on the seabed and water column. Monitoring parameters, monitoring sites and reference sites will be identified and regular monitoring will be required.</p> <p>The policy sets out maximum adverse effect thresholds for benthic effects. A maximum ES of 5.0 is appropriate at or near farm structures, with a maximum of 3.0 at outer limits.</p> <p>Conditions may be applied to reduce effects below threshold levels, including reducing the scale, nature or timing of the marine farm activities.</p> <p>Other conditions may also be imposed.</p>	<p>This policy manages the potential effects of uneaten feed and faeces on the seabed and in the water column.</p> <p>The Enrichment Stages used for the monitoring of benthic effects reflect the guidance in the Best Practice Guidelines. The approach is considered to be an 'adaptive management approach'.</p> <p>The policy remains flexible with regards indicators for water column effects, so that Council can respond to the rapidly evolving base of scientific knowledge in this area.</p>
Policy 13.22.11	<p>Existing consents for marine farms will be reviewed as early as possible to ensure they are consistent with the proposed new approach in Policy 13.22.10 (which sets out environmental bottom lines for enrichment effects).</p>	<p>The purpose of this policy is to ensure a consistent approach is taken to all marine farms where feed is discharged.</p>

5.2.2 Proposed rules to be added to the PMEP

5.2.2.1 Space allocation

Rule 16.9.10 sets out that authorisations for finfish farms will only be allocated for space within FAMAs.

Rule 16.9.11 states that where authorisations are not required or allocated for finfish farms they may be allocated to non-finish farms in accordance with Policy 13.21.7.

5.2.2.2 *Restricted Discretionary Activities*

Rule 16.5.5 provides for marine farming in a Finfish AMA if an authorisation is held to apply for a coastal permit to occupy space within the Finfish AMA. The activities include the discharge of feed but exclude the discharge of medicinal or therapeutic compounds.

5.2.2.3 *Assessment Matters for restricted discretionary activities*

Proposed Variation 1A identifies a number of assessment matters over which Council has reserved discretion. These relate to:

- a) Layout and design of the farm, including the arrangement of structures and separate distances between structures.
- b) The layout, positioning (including density), lighting and marking of marine farm structures within the marine farm site, to ensure reasonable public access and navigational safety.
- c) Appropriate and efficient use of the space within the FAMA (to ensure space is not squandered, resulting in demands for additional space).
- d) Conditions to require surrender of existing permits or other methods to ensure the allocation of space replaces existing rights of an equivalent area.
- e) Timing and rates of stocking and discharge of feed.
- f) Management of effects on water quality and the benthic environment.
- g) Effects on reefs or biogenic habitats.
- h) Management practices to minimise odour, mammal and seabird interactions, shark interactions.
- i) Integrity and security of structures and anchoring systems.
- j) Maintaining the farm in good working order and removing rubbish.
- k) Visual appearance and compatibility with the surrounding coastal environment.
- l) Supply of information and monitoring data to the Council.
- m) Removal of derelict, unused or obsolete structures.
- n) Review of consent conditions including in relation to scale, size, number of fish, feed levels or duration of use, if the trigger levels in Policy 13.22.1 or 13.22.10 are met.
- o) Duration of consent.

The assessment matters are intended to help address the potential impacts of marine farms on public access, navigational safety, visual amenity and the environment. They also address various matters which will be dealt with by conditions, such as the surrender of existing permits, supply of information and monitoring data, duration of consent and review conditions.

5.2.3 **New Definitions**

Proposed Variation 1A will insert a definition for a 'Finfish Aquaculture Management Area' or FAMA into Chapter 25 of the Plan. It will also amend the definition of AMA so that it includes FAMAs. These definitions are required to help with the interpretation of the provisions.

6 Evaluation of proposed Variation 1A

6.1 Are the proposed objectives the best way to achieve the purpose of the RMA?

s32(1)(a) of the RMA requires an assessment to determine whether the objectives of Variation 1A are the most appropriate way to achieve the purpose of the Act. Proposed Variation 1A does not include any new objectives. The purpose of proposed Variation 1A is to implement the objectives in the main proposed Variation 1. The Council's assessment of the objectives in proposed Variation 1 is set out in Appendix 5 of the s32 report for that Variation. A short summary of that assessment is set out below.

By providing for finfish farms in appropriate locations, proposed Variation 1A enables people to provide for their economic and social wellbeing, while at the same time maintaining environmental bottom lines, consistent with s5 of the RMA.

Together with proposed Variation 1: Marine Farming, the proposed provisions help the Council:

- Give effect to Policy 8, Objective 6 and Policy 6 of the NZCPS in particular
- Give effect to other objectives and policies in the RPS¹⁶
- Achieve the Council's statutory functions under s30(1)(d), and in particular s30(1)(d)(ii) which relates to the occupation of space in the common marine and coastal area, and s30(fb)(ii) which relates to the establishment of a rule in a regional coastal plan to allocate space in a coastal marine area under Part 7A of the RMA.

The proposed provisions have been carefully developed to reflect recent planning processes. The Council has considered how the finfish provisions will be read alongside other parts of the RPS and coastal plan and how finfish farming will be balanced with other values, including the protection of natural character, landscapes and visual amenity, public access and recreation, indigenous biodiversity and water-based transportation.

In conclusion, the Council considers that the proposed policies and rules are the most appropriate way to achieve the purpose of the Act.

6.2 Assessment of the appropriateness of the provisions to achieve the objectives

Proposed Variation 1A is an 'amending proposal' under s32(3) of the Act, as it amends a proposed Plan. In this situation, s32(1)(b)(i) RMA requires the proposed provisions of the Variation to be evaluated against both the objectives of the proposed Variation (if there are any) and the relevant objectives in the proposed Plan. This is so the proposed Variation cannot be justified based solely on its own objectives, without being consistent with the broader plan objectives. The evaluation must assess whether the new provisions will help achieve the objectives already in the plan and will not undermine them¹⁷.

¹⁶ in particular Objective 13.2, Policy 13.2.2, Objective 8.2, Objective 4.3, Policy 4.3.2, Objective 9.1, Objective 6.2, Objective 7.2.

¹⁷ See page 16 of the MfE Guide to s32 of the Act.

The following sections work through the requirements of s32 for the provisions which implement the objectives.

6.2.1 Reasonably practicable options for achieving the objectives

As part of examining the provisions in proposed Variation 1A under s32, reasonably practicable options for achieving the proposed objectives must be identified. Options can include both regulatory or non-regulatory approaches, and should be within the Council's resources, duties and powers. They must also be targeted towards achieving the objectives.

The Council considered a number of alternatives for achieving the proposed Variation 1A objectives. These include alternatives relating to the important questions of 'how much?' and 'where?' finfish farming is appropriate.

Other options that were considered related to:

- How and whether to apply adaptive management to existing farms
- How to provide for reviews of consents if monitoring showed a cumulative adverse effect (by a plan change process or a policy which guides review clauses on consents)

Some important options decisions are explained below.

6.2.1.1 *How much finfish farming is appropriate?*

The Council's options were:

- Provide for less finfish farms than is currently authorised by existing permits;
- Provide for about the same as is currently authorised; or
- Provide for growth of finfish farming in the Sounds.

In advice to the Minister of Aquaculture in 2016, the Salmon Working Group presented its findings that existing farms at low flow sites had consistently measured beyond the accepted Enrichment Stage of 5. In order to implement the Benthic Guidelines for these sites, the Salmon Working Group considered relocating salmon farms, amid a number of options. It was recommended that if existing salmon farm sites are relocated, then the coastal space previously occupied by the farms should not be made available for future aquaculture.

A key principle agreed on by the Salmon Working Group when assessing sites for potential relocation, was that there shall be no increase in total surface structure area for any farms that are relocated.

In recent consenting processes the public has expressed deeply held opposition to additional finfish farms in the enclosed waters of the Sounds. In the *Report and Recommendations of the Marlborough Salmon Farm Relocation Advisory Panel* (prepared for MPI, July 2017) the Panel noted:

"There is a substantial body of deep-seated resentment in the public arena against the proposal [to relocate the salmon farms]. Given the depth of that feeling, we felt it was important for the Minister to appreciate that the salmon farming industry is almost certainly going to find its pathway into the

future frustrated by continued deeply felt opposition through the RMA plan and consenting processes¹⁸.”

Ocean aquaculture is therefore seen as essential if growth is to occur. New Zealand Trade and Enterprise has been investigating the potential of open ocean aquaculture¹⁹. Open ocean farming will require ‘transformational change’, which means

- overcoming significant technological hurdles
- additional investment in research and development (R&D) and commercialisation of those R&D outputs
- creating additional scale
- building resilience to climate change
- locating new sources of investment, and
- Reviewing the regulatory environment²⁰.

However, open ocean farming is considered to have advantages for the health of farmed fish stock, resilience to warming coastal waters (which are unsuitable for salmonids) and potentially less conflict with competing users of space (for shipping and navigation, commercial fishing, tourism, recreation and public use purposes)²¹.

The Council considers that the carrying capacity for finfish farming in the enclosed waters of the Sounds, particularly in low-flow sites, has been reached. The proposed provisions prohibit further growth in the enclosed waters Sounds but provide an opportunity for research and development into finfish farming in open water, provided it can be demonstrated that adverse effects can be appropriately managed. Over time, the results of imposed monitoring requirements will provide evidence if it will be appropriate to adjust the current level of finfish farming in the enclosed waters - whether that is up or down.

6.2.1.2 Where is finfish farming appropriate?

As described above, the Salmon Working Group considered relocation as a tool to help salmon farms operating in low flow sites achieve the EQSs (from the Benthic Guidelines) that they weren’t meeting. Two of the key principles for proposed farm relocations were:

- Salmon farming must be a viable commercial industry in the Marlborough Sounds
- Relocating sites must lead to a net gain in environmental outcomes.

The Salmon Working Group recommended:

- If existing salmon farms are relocated, then the coastal space previously occupied by the farms should not be made available for future aquaculture

¹⁸ Report and Recommendations of the Marlborough Salmon Farm Relocation Advisory Panel, prepared for MPI July 2017.

¹⁹ EnviroStrat. *Open Ocean Finfish Aquaculture: Business Case*. February 2020. Prepared for New Zealand Trade and Enterprise.

²⁰ EnviroStrat. *Open Ocean Finfish Aquaculture: Business Case*. February 2020. Prepared for New Zealand Trade and Enterprise. Section 1.3.3 review of the New Zealand Aquaculture Strategy

²¹ EnviroStrat. *Open Ocean Finfish Aquaculture: Business Case*. February 2020. Prepared for New Zealand Trade and Enterprise.

- Undertake research to facilitate seabed remediation where farms have been vacated
- The Government explores options to close the enclosed sounds for new salmon farming space, which includes consideration of iwi settlement obligations and growth aspirations.

Nine high flow potential sites (four in Tory Channel and five in Waitata Reach) were identified for detailed investigations on their suitability to grow salmon. Five of them - Blowhole Point North, Blowhole Point South, Waitata Mid-channel, Richmond Bay South, and Horseshoe Bay - were recommended by the Working Group to proceed to public notification and then be considered by the Marlborough Salmon Farm Relocation Advisory Panel ('Salmon Relocation Panel').

If the relocation proposal did not proceed, the Salmon Relocation Panel considered the consequences were that the negative effects of salmon farming in sub-optimal conditions would continue for the next 5-7 years. They considered this contrary to the meaning of sustainable management, while safeguarding the environment.

Salmon Relocation Panel recommended that the proposal proceed in respect to only three of the six high flow sites (Tio Point, Richmond Bay South, and Horseshoe Bay). Their reasons for not recommending relocation for the other three sites (Blowhole Point North and South and Waitata Mid-Channel) were site-specific and due to a combination of navigation, cultural, natural character, and landscape effects.

Based on this information Council's options for future spatial allocation of finfish farms were then:

- To keep the status quo (salmon farms would remain at Waihinau, Otanerau, Ruakaka Bay, Crail Bay and Forsyth Bay)
- Relocate the three farms recommended by the Salmon Relocation Advisory Panel, or
- Relocate all six farms (including those the Salmon Relocation Advisory Panel recommended not to relocate).

Option a) is not considered a 'reasonably practicable' option for achieving the proposed Variation 1 objectives. The consequence of providing for the farms at their current low flow sites is that the existing negative effects of salmon farming in sub-optimal conditions would continue.

Option c) is not considered a 'reasonably practicable' option for achieving the proposed Variation 1 objectives, as potential adverse effects would arise from relocating to Blowhole Point North and South and Waitata Mid-Channel. These sites are not considered suitable for salmon farms due to landscape, navigation, and issues raised by iwi about cultural values and the aquaculture settlement process.

The Salmon Working Group considered offshore farming as an option for existing salmon farms to achieve the Benthic Guidelines' EQSs. They concluded that the technology for offshore farming is not yet available at a commercial scale, nor the robust level of engineering required for NZ conditions. They recommended that the industry continue research offshore farming as part of the continued improvement and evolution of NZ salmon farming practices. NZ King Salmon stated that commercial offshore farming will occur sometime in the future.

Proposed Variation 1A provides for advancements in offshore farming through the inclusion of Policy 13.21.6, which outlines how marine farms may be appropriate in offshore CMUs.

6.2.2 The effectiveness and efficiency of the proposed provisions

The proposed provisions set out a strong policy framework and strategic direction that is both effective and efficient by setting out where finfish farming is and is not appropriate in the Sounds. This approach will be

more effective than the operative plan’s approach. It is also more efficient, as it provides certainty to both the community and the industry about where finfish farms may be appropriate and are inappropriate in the enclosed waters of the Sounds.

Table 5: Rationale for why the proposed provisions are the most effective and efficient

Approach taken in Variation 1A	Why this approach is the most efficient and effective
<p>Identification of FAMAs as areas which are appropriate for marine farming.</p> <p>Values table identifies values in each CMU which are important and need to be provided for.</p>	<p>Saves applicants and decision makers from having to collect this information on a case by case basis.</p> <p>Transparent</p>
<p>Restricted discretionary activity status for existing farms which meet all of the standards</p>	<p>Efficient consent process once an authorisation has been obtained.</p> <p>Provides certainty regarding investment.</p> <p>Encourages marine farmers to ‘buy-in’ to the allocation process.</p>
<p>Adaptive management approach to the results of monitoring, including consent review conditions.</p>	<p>The Council can respond quickly and flexibly without having to go through a public consultation process.</p> <p>Can address effects of individual farms or collectives.</p> <p>Doesn’t require waiting until the Council has all the necessary information to determine the full range of effects, including cumulative effects, which is likely to take many years.</p>
<p>Prohibited activity status of marine farming outside of FAMAs</p>	<p>Clearly signals that no new finfish farms will be accepted in the enclosed waters CMUs.</p> <p>Prevents prospective applicants from putting in speculative applications for resource consents that would be consistently refused, saving time and money for all parties.</p>

6.2.3 Costs and benefits of implementing of the preferred option

Proposed Variation 1A implements the salmon relocation recommendations from the MPI plan change process. The benefits of the salmon relocation proposals were summarised as:

- Improved environmental outcomes from implementation of the Benthic Guidelines
- Maintaining or improving the social and cultural outcomes from finfish farming by creating jobs and moving salmon farms away from areas of high competing use

- Maintaining or increasing the economic benefits of salmon farming by providing for industry growth through more efficient use of marine farming space, and by providing for offshore opportunities rather than creating additional new space in the enclosed waters
- Enhanced water quality
- Reduced visual, noise and odour effects on residents, where salmon farms are relocated away from some current areas.

An economic assessment was undertaken to identify the costs and benefits of implementing proposed Variation 1. This assessment did not cover the finfish farming provisions specifically, but assessed the benefits of increased certainty and more efficient consent processes proposed by the variations. These may include:

- Greater certainty for the industry, resulting in more investment in research and development
- An opportunity to advance open water farming, which could have significant positive economic impacts in the future, subject to research trials and technology advancement
- Some benefits to the recreational marine economy from an improved and more accessible marine environment.

Relocating some finfish farms would incur costs for those farms who have to relocate farms so they are within FAMAs.

A number of negative effects, or perceived 'costs' of the relocation were proposed by those who presented evidence at the hearings of the MPI salmon relocation process. These costs included:

- Impact on a wider benthic (seabed) area
- Impact on the benthic areas under the farms to a greater extent
- Reduced water quality
- Reduced ecological health
- Impact on Outstanding Natural Character
- Impact on Outstanding Landscape Values
- Increased negative effects on the Sounds community
- Increased risk to navigation, in particular in Tory Channel and Waitata Mid-Channel
- Impact in and near Te Hoiere (Pelorus Sound) on issues of significance to Māori
- Impact on the integrity of Coastal Plan formation processes

On balance, the costs associated with implementing proposed Variation 1A are considered to be outweighed by the environmental, social, cultural, and economic benefits.

6.2.4 Social effects

There is potential for beneficial effects from improved public access and amenity at Waihinau Bay, Ruakaka Bay and Otanerau Bay when the salmon farms in these areas are relocated.

The Aquaculture Unit of MPI recently published an information paper²² which summarises research into the social benefits of having a job. The paper describes the benefits for individuals and their households as well as for the wider community. Because Variation 1A provides for the same or similar area of salmon farms as currently exists, it is likely to result in the same or nearly the same production and therefore job opportunities as the status quo. This means that the social benefits of the jobs in the industry is likely to remain unchanged. Variation 1A provides for opportunities for growth in the finfish industry by providing for opportunities to expand in the open ocean. It is not possible to accurately predict to what extent this will generate additional jobs. If new jobs are created (for example in research and development), this is likely to have flow-on positive benefits for individuals, their households and the wider community.

6.2.5 Economic effects

The economic effects have not been quantified. Other than the cost of relocating 3 existing finfish farms no adverse economic effects are anticipated.

6.2.6 Cultural effects

Coastal Marlborough holds great spiritual and practical significance to the eight tangata whenua iwi of Te Tau Ihu – the top of the South. It is where the first Maori landed 800 years ago at Te Pokohiwi, the Boulder Bank at the Wairau Lagoon.

Iwi have a strong sense of kaitiakitanga (guardianship) for managing the coast and protecting the mauri (life source) of the environment for future generations. This responsibility includes the coastal waters, foreshore, estuaries, and river mouths and all the species that live within these ecosystems.

Treaty of Waitangi settlements between Te Tau Ihu iwi and the Crown became law in August 2014. These settlements include statutory acknowledgements of the cultural, spiritual, historical, and traditional associations of each iwi to Marlborough's coastal areas.

Variation 1A will reduce cultural effects when compared with the status quo, because it manages the existing low flow salmon farms, which will reduce their environmental and cultural impact. It will not remove these impacts entirely as finfish farming will remain in the Sounds. The environmental impact will improve, as the relocations along with effects bottom-lines and adaptive management will ensure the environmental impacts are managed sustainably.

6.2.7 Environmental effects

6.2.7.1 Ecological effects

As discussed earlier in section 4.1, the key environmental impacts resulting from salmon farming are on the water column and the benthic environment (seabed).

In the **water column**, finfish farming has the potential to result in nutrient enrichment and depleted dissolved oxygen. Nutrient enrichment of the water column can lead to eutrophication, excessive growth of algae, and in some cases the potential for harmful algal blooms.

At the **seabed**, nutrient enrichment is also the dominant effect. This is often associated with an increase in microbial activity, which can alter the chemistry and ecology of the seafloor beneath the farm. Excessive

²² Quigley, R. and Baines, J. The Social Value of a Job (2014, Ministry for Primary Industries, Wellington). A copy

of this report is available here: <https://www.mpi.govt.nz/dmsdocument/5266-the-social-value-of-a-job>

enrichment can change well-aerated and species-rich soft sediments inside or close to sea pens into oxygen-depleted (anoxic) zones. In anoxic zones, only a few sediment-dwelling species that are tolerant of the degraded conditions can survive. In extreme cases, excessive enrichment can lead to conditions where the seabed is completely devoid of life. The type of animals living within the sediment (infauna) will also change, with a decrease in diversity and an increase of a few common opportunistic species.

The Salmon Relocation Advisory Panel concluded that adverse effects on water quality can be avoided by using the adaptive management regime, which they also considered a 'sound strategy' for managing benthic effects. Upon the evidence of benthic and water quality experts, they considered that using the Benthic Guidelines, coupled with the adaptive management regime, and measuring near- and far-field effects, will provide a precautionary approach in line with Policy 3 of the NZCPS.

Finfish farming intensity may be adjusted if necessary, by using monitoring Enrichment Stage (ES) indicators and by using adaptive management approaches. If implementing the new provisions results in adverse ecological effects (including cumulative effects), these can be addressed by changing things like the scale, stocking rates, and amount of feed that is discharged.

The monitoring data will also make sure better information is available for the next plan review. An early review can be triggered if necessary.

6.2.7.2 Landscapes and natural character

The Council is required to give effect to Policy 13 and 15 of the NZCPS, which means that adverse effects on outstanding natural character (ONC) and outstanding natural features and landscapes (ONFL) must be avoided.

During the development of Variation 1A, Boffa Miskell²³ prepared a report analysing whether the existing farms in or adjacent to ONFL/ONC areas, individually or collectively, adversely affect the values and characteristics of the relevant ONFL or ONC area. Their assessment also identified the nature of the adverse effects. Boffa Miskell recommended how those adverse effects could be avoided through alternative spatial layouts where necessary, or where opportunities should be sought to relocate existing farms.

The majority of sites assessed contained mussel farms, however one salmon farm appears in an ONFL/ONC area, located in Ruakaka Bay, in Queen Charlotte Sound.

The assessment concluded that Ruakaka Bay is sensitive to salmon farm development due to the size and industrialisation of the activity and the lack of modification and containment. The continuing occupation of this salmon farm on the waters of Ruakaka Bay would likely have adverse effects on the very high outstanding values and is considered inappropriate.

The resulting configuration of Proposed FAMAs reflects Boffa Miskell's recommendation. The Salmon Relocation Panel (from the MPI Salmon Relocation process) also recommended the relocation of the existing salmon farm from Ruakaka Bay due to adverse effects, including those associated with salmon farming in sub-optimal conditions.

²³ Boffa Miskell for MDC. Existing marine farms in Outstanding Overlays. Appropriateness of marine farms in the Marlborough Sounds. Natural Character and Landscape Assessment on existing aquaculture locations within Outstanding Natural Features and Landscapes and Outstanding Natural Character in the Marlborough Sounds. February 2018.

The Council considers that the proposed FAMAs in proposed Variation 1 will have a net positive impact on landscape and natural character, due to the relocation of the existing salmon farm at Ruakaka Bay, to the FAMA at Horseshoe Bay.

Richmond Bay South, Horseshoe Bay and Tio Point - the three sites where relocated finfish farms will be moved to (as a result of the MPI Salmon Relocation process), are not recognised as outstanding landscapes or having outstanding natural character. The potential adverse effects on these values can be appropriately managed in their new locations.

6.2.8 Economic Growth and Employment Opportunities

Proposed Variation 1A is not intended to facilitate further industry growth in the enclosed water Sounds, but it does provide certainty, which helps investors plan accordingly.

The Government's *Aquaculture Strategy to 2025*²⁴ (September 2019) has a strong growth focus. The Strategy recognises the potential contribution that aquaculture can make to regional economies and the opportunity to partner with Maori to realise "meaningful jobs, wellbeing and prosperity". The *Aquaculture Strategy* is not a statutory instrument but is implemented through regional coastal plans and the NZCPS.

The finfish industry is an important contributor to the local and regional economy and there is a strong direction from central government to invest in sustainable finfish farming. Future opportunities for growth in finfish farming in Marlborough will be in the open coastal waters, where effects on the marine environment are expected to be less adverse.

6.2.9 Risks associated with adopting proposed Variation 1A

The main risk with the proposed finfish provisions is the ability to protect the seabed and water column from adverse effects from input feed and waste products from salmon. The MPI Advisory Panel recommended that an adaptive management and precautionary approach was required to address this. The proposed Variation 1A provisions pick up and implement the adaptive management approach recommended by the Panel.

6.2.10 Section 32(4) assessment

If a proposal will impose a greater or lesser prohibition or restriction on an activity to which a national environmental standard applies, section 32(4) of the RMA requires that the evaluation report must examine whether the prohibition or restriction is justified in the circumstances of each region or district.

6.2.10.1 A regional council may have a more lenient rule

Regulation 23 of the NESMA permits a regional council to have rule for a replacement consent that is more lenient than a restricted discretionary activity.

The NES for Marine Aquaculture ('NESMA') directs that replacement consents for existing marine farms are restricted discretionary activities (Regulation 14).

Variation 1A also proposes that marine farming in a Finfish AMA, for which an authorisation is held (Rule 16.5.5), is a restricted discretionary activity. No assessment under s32(4) is not required as the rule in Variation 1A is not more lenient than the NESMA

²⁴ Available from: <https://www.fisheries.govt.nz/growing-and-harvesting/aquaculture/strategy/>

6.2.10.2 A regional council may include a more stringent rule

Regulation 13 of the NESMA permits a regional council to have a more stringent rule for a replacement consent than a discretionary activity.

Variation 1 proposes a rule that is more stringent than that of the NESMA. A section 32(4) assessment is included in section 6.2.10 of the s32 evaluation report for Variation 1: Marine Farming, justifying why its inclusion is justified in the circumstances of the region. Section 165H assessment of rule 16.9.10 and 16.9.11.

The Council must undertake an assessment under section 165H and be satisfied about certain matters before it can include an allocation rule in a proposed regional coastal plan. The assessment must be documented and published when the rule is publicly notified.

When undertaking a s165H assessment the Council must have regard to:

- The reasons for and against including the rule
- The reasons why a method of allocating authorisations other than by public tender is justified, and
- How this might affect the preferential rights provided for in section 165W²⁵.

The Council must be satisfied that:

- A rule that relates to the allocation of space is necessary or desirable in the circumstances of the region, and
- (If the proposed allocation of authorisations will use a method that is not public tender) that the proposed method is the most appropriate, having regard to its efficiency and effectiveness compared to other methods.

Proposed Variation 1A includes two rules that relate to allocations of authorisations for finfish farms, and will sit within the wider aquaculture allocation rules. The s32 report for proposed Variation 1 provides an assessment of the allocation approach (16.9); which is also relevant for finfish farming, and so is adopted for this report.

7 Statutory Evaluation

7.1 Section 5 – Purpose of the RMA

Proposed Variation 1A will help achieve the sustainable management of natural and physical resources. Variation 1A provisions enable the finfish industry to continue to operate (providing for economic wellbeing), but will also:

- Improve social wellbeing (through improved amenity and recreational access)
- Ensure health and safety (through consideration of navigational safety)

²⁵ S165W relates to the preferential rights of iwi to purchase a portion of the authorisations when a public tender of authorisations is conducted. Those rights pertain to certain iwi.

- Avoid, remedy or mitigate the adverse effects of aquaculture activities on the environment (on seabed health, sensitive landscapes and natural character).

The provisions seek to remedy the adverse impacts of existing marine farms in 'inappropriate' places by requiring these to move to more appropriate locations.

7.2 Section 6 – Matters of National Importance

Section 6 of the RMA identifies matters to be recognised and provided for in achieving the purpose of the Act. These sections are particularly relevant to proposed Variation 1A:

- **Section 6(a)** - requires the preservation of the natural character of the coastal environment (including the coastal marine area), and its protection from inappropriate subdivision, use, and development.
- **Section 6(b)** – requires the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development.

As stated above, Richmond Bay South, Horseshoe Bay and Tio Point (the three sites where relocated finfish farms will be moved to) are not recognised as outstanding landscapes or having outstanding natural character. Therefore, no adverse effects on these outstanding values are anticipated.

- **Section 6 (c)** – requires the protection of significant habitats, which includes marine habitats.

AMAs have been located to avoid ecologically significant marine sites which have been identified in the Sounds.

- **Section 6 (d)** - requires the maintenance and enhancement of public access to and along the coastal marine area.

Moving existing finfish farms away from coastal settlements in Waihinau Bay, Ruakaka Bay and Otanerau Bay will enhance public access to the coastal marine area in these locations.

- **Section 6 (e)** - the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga must be recognised and provided for.
- **Section 6 (h)** – requires the protection of protected customary rights.

There are some customary rights guaranteed to iwi in terms of commercial aquaculture. These are addressed through the identification of Aquaculture Settlement Areas. Moving the existing farm away from Otanerau Bay will have positive effects because, this is an area of cultural significance to Te Ātiawa.

7.3 Section 7 – Other Matters

Decision makers must have particular regard to a range of matters in exercising their functions and powers under the RMA. These matters are particularly relevant to proposed Variation 1A:

- a) Kaitiakitanga
- b) The efficient use and development of natural and physical resources
- c) The maintenance and enhancement of amenity values
- d) The maintenance and enhancement of the quality of the environment

Proposed Variation 1A provides a consenting process for finfish farms that will provide for efficient use of natural resources. Moving existing finfish farms from low flow sites to high flow sites will result in better fish health and productivity, reduce effects on the water column and seabed and improve amenity (aesthetics, noise and odour effects) for other users (by moving farms away from coastal settlements in Waihinau Bay, Ruakaka Bay and Otanerau Bay). Moving the existing farm away from Otanerau Bay will have positive cultural effects because this is an area of significance to Te Ātiawa.

7.4 Section 8 – Treaty of Waitangi

Section 8 of the Act requires that the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) are taken into account when achieving the purpose of the Act. The Council has taken into account these principles, including any potential impacts on aquaculture agreements between iwi and the Crown which arise from Treaty rights.

There are a number of Statutory Acknowledgements which cover the Marlborough Coastal Marine Area. The Council has taken these acknowledgements into account and has consulted with the relevant iwi.

8 Scale and Significance of this s32 evaluation

This evaluation report “must contain a level of detail that corresponds to the scale and significance of the ... effects that are anticipated from the implementation of the proposal” (s32(1)(c)). Scale refers to the size or magnitude of the effects, including how many people or species or other natural resources are affected, by how much, and over how wide an area.

The factors which indicate the scale and significance of the proposals have been assessed in Appendix 2. The proposed Variation 1A provisions are a significant departure from the current framework because they are more directive about where finfish farms can locate. This creates certainty for marine farmers, other plan users and the public.

Overall, proposed Variation 1A addresses issues that are of high significance and at a scale that affects public use of the enclosed waters Sounds. For that reason, this detailed s32 assessment has been undertaken.

9 Conclusion

This report provides a summary assessment of proposed Variation 1A consistent with s32 of the RMA. The report assesses the purpose of the proposed Variation, and the options that were considered when it was developed.

The conclusion is that proposed Variation 1A is the most appropriate way to achieve the purpose of the RMA, to give effect to the RPS and achieve the objectives in proposed Variation 1: Marine Farming.

Appendix 1: Proposed Variation 1 provisions and planning maps

(see Schedule of Changes)

Appendix 2: Scale and significance of the evaluation

This appendix assesses the factors which determine the scale and significance of the proposals. The purpose of the assessment is to determine the depth of analysis which should be undertaken in a s32 assessment.

Reasons for the change

- The aquaculture provisions are the last parts of the plan to be reviewed.
- Changes are needed to give effect to Policy 8 of the NZCPS and the NESMA.
- To provide increased certainty for industry and communities about where finfish farms will be located in the future, and how many will be provided for.
- Address the adverse impacts, including potential adverse cumulative impacts, from the previous ad hoc approach to managing the location of finfish farms.

Degree of shift from the status quo

The new provisions present a significant departure from the existing approach. Some of the key differences are:

- Proposed Variation 1 is much more directive over where finfish farms will be allowed to locate.
- The activity status is less restrictive than the operative plan (restricted discretionary versus discretionary) once an authorisation has been obtained.
- Monitoring, review, and adaptive management will be required for all consents.

Table 6 summarises the key differences between the current (operative) plans and the proposed Variation 1 provisions:

Table 6: Key differences between the operative plans and proposed Variation 1: Marine Farming

Current plans: Marlborough Sounds Resource Management Plan (MSRMP) Wairau/Awatere Resource Management Plan (WARMP)	Proposed Marlborough Environment Plan – Aquaculture Section
<p>Under the MSRMP</p> <p>Harvesting of marine farm produce from farms previously authorised by a current Coastal Permit, Marine Farm Lease or Licence (under the Marine Farming Act 1971) is a permitted activity.</p> <p>Three Coastal Management Zones:</p> <p>CMZ1</p> <ul style="list-style-type: none"> • New marine farms are prohibited 	<p>One Coastal Management Zone (CMZ).</p> <p>45 CMUs which divide the sounds into unique parcels based on catchments, key features, and values.</p> <p>FAMAs within the CMUs.</p> <ul style="list-style-type: none"> • Within FAMAs, existing finfish farms with a authorisation to obtain a coastal permit which discharge feed, are a restricted

<p>activities</p> <ul style="list-style-type: none"> Existing marine farms with a current Coastal Permit, Marine Farm Lease, Licence applied for before 1 August 1996, or authorised by a new Coastal Permit, are controlled activities Marine farms listed in Appendix D2 of the MSRMP are discretionary activities. <p>CMZ3</p> <ul style="list-style-type: none"> This zone was created as a result of the New Zealand King Salmon Private Plan Change (Plan Change 24) and several concurrent applications Marine farms are located at three sites (Ngamahau, Waitata and Richmond) as a result of the <i>Board of Inquiry</i> hearing Marine farming shall be limited to the species King Salmon and is a discretionary activity <p>Under the WARMP:</p> <p>One Coastal Marine Zone (CMZ) - Mean High Water Springs to 12 Mile Limit</p> <p>CMZ</p> <ul style="list-style-type: none"> Any marine farm is a discretionary activity 	<p>discretionary activity.</p> <ul style="list-style-type: none"> Outside of FAMAs, but within Enclosed Waters CMUs, finfish farms are a prohibited activity In open water CMUs, finfish farms are a discretionary activity <p>The council has adopted an authorisation allocation” methodology. Existing finfish farms will be allocated authorisations for coastal space in FAMAs. Farms with authorisations can then apply for resource consent.</p>
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Who and how many will be affected?

Marine farmers

There will be some reduction in marine farm activity in the short to medium term, as some locations which are currently farmed will not be replaced when their consents expire. Most of the economic benefits will be retained.

Other users

There is potential for improved visual amenity as a result of moving three farms away from residents and other users in the Queen Charlotte Sound.

Prohibiting finfish farms outside FAMAs will give some certainty to the community that another aquaculture expansion won't happen in the enclosed waters of the Sounds without public input.

Degree of impact on, or interest from, iwi/Māori

The coastal marine environment is of considerable significance and value to all iwi of which the Marlborough Sounds falls within their rohe.

When will effects occur?

The duration of new permits is likely to be 20 years. Any associated effects will be longer term (but not necessarily permanent).

Geographic scale of the effects

Variation 1A affects all existing locations of finfish farms and all the three proposed locations for FAMA. Variation 1A also affects other parts of the Sounds, as it makes finfish farming a prohibited activity outside the identified FAMA, a more restrictive activity status than the status quo, and than the NESMA.

Types of effects

The Marlborough Salmon Working Group agreed that shifting existing farms to high-flow sites may enable the farms to comply with the Benthic Guidelines. The relocation will result in improvement to natural processes at the benthos from the cessation of salmon farming at these three low flow sites, and recovery of areas of the seabed that had become anoxic.

In the three high flow sites that finfish farms are being relocated to, the Salmon Relocation Advisory Panel concluded that adverse effects on water quality can be managed by using the adaptive management regime, which they also considered a 'sound strategy' for managing benthic effects. Upon the evidence of benthic and water quality experts, they considered that using the Benthic Guidelines, coupled with the adaptive management regime, and measuring near- and far-field effects, will provide a precautionary approach in line with Policy 3 of the NZCPS .

At the three relocation sites, the Salmon Relocation Advisory Panel concluded that:

- Landscape and natural character values at the relocation sites would not be significantly impacted
- Effects on residential amenity would be minimal

- There are either no adverse navigational effects, or these can be mitigated
- There are no major noise benefit or negative effect from relocation, but relocation of the farm from Waihinau would be an advantage in terms of noise for residents nearby
- Odour from a salmon farm is unlikely to be an intrusive element, and
- Benefits to King Shag as the preferred foraging range will be extended as natural remediation occurs.

It is considered that the geographic shift of these three farms from low to high flow sites, will result in better environmental outcomes.

Degree of policy risk, implementation risk or uncertainty

The Council is mindful of the risks raised in the Report and Recommendations of the Marlborough Salmon Farm Relocation Advisory Panel. The Panel considered that relocating farms to high-flow sites was the only realistic way to protect the benthos from ongoing risk exposure, while at the same time avoiding loss of employment and significant reduction of regional GDP. The Council has relied on the latest technical evidence prepared for the MPI Plan change process.

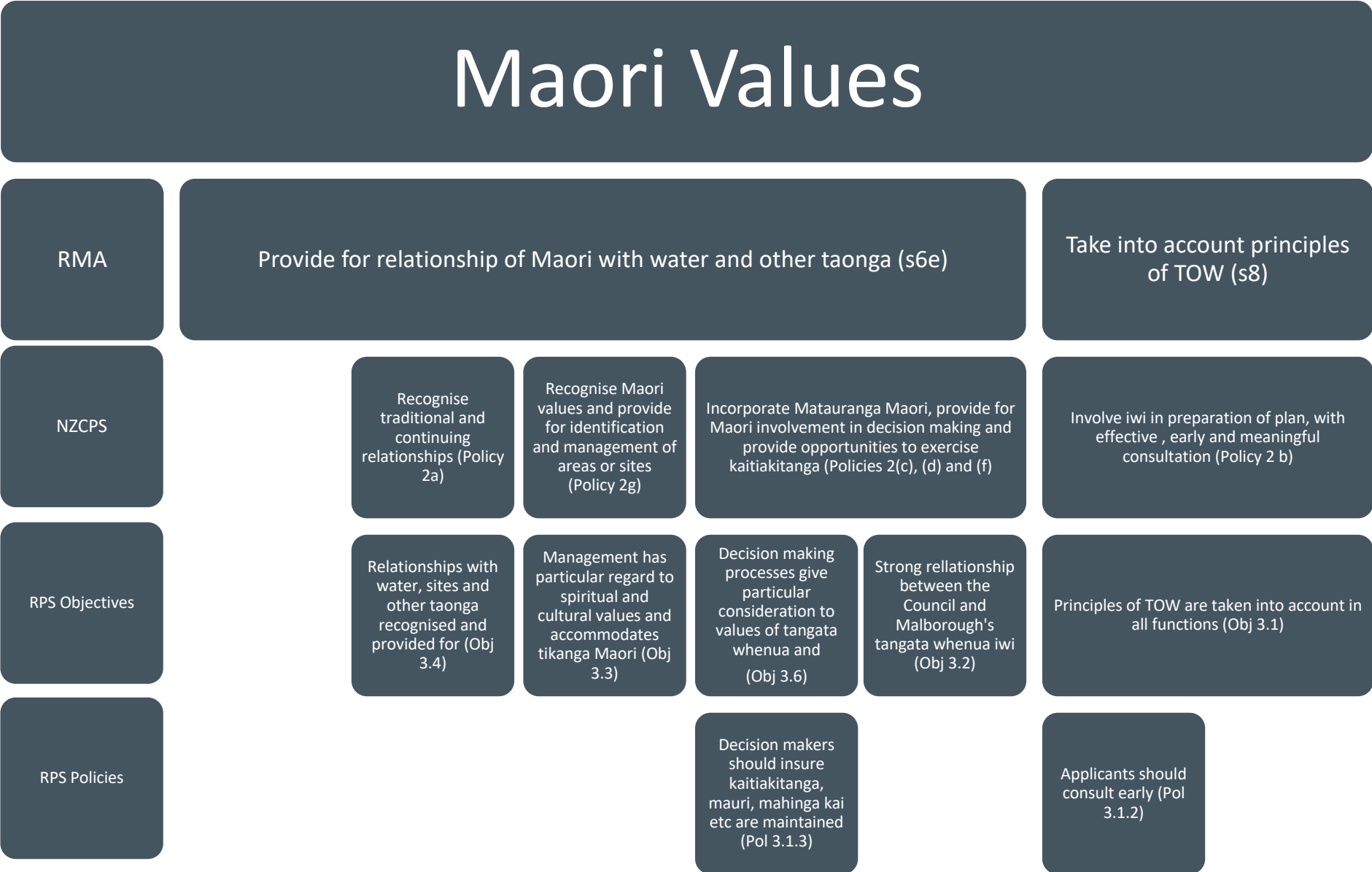
Some risks remain with respect to how finfish farming enabled by the proposed Variation may affect long term seabed health - which will be addressed by long-term monitoring and analysis.

The Council has weighed up the risks and considers that the proposed provisions provide an evidenced response to those risks. The benefits of implementation are considered to outweigh the risks.

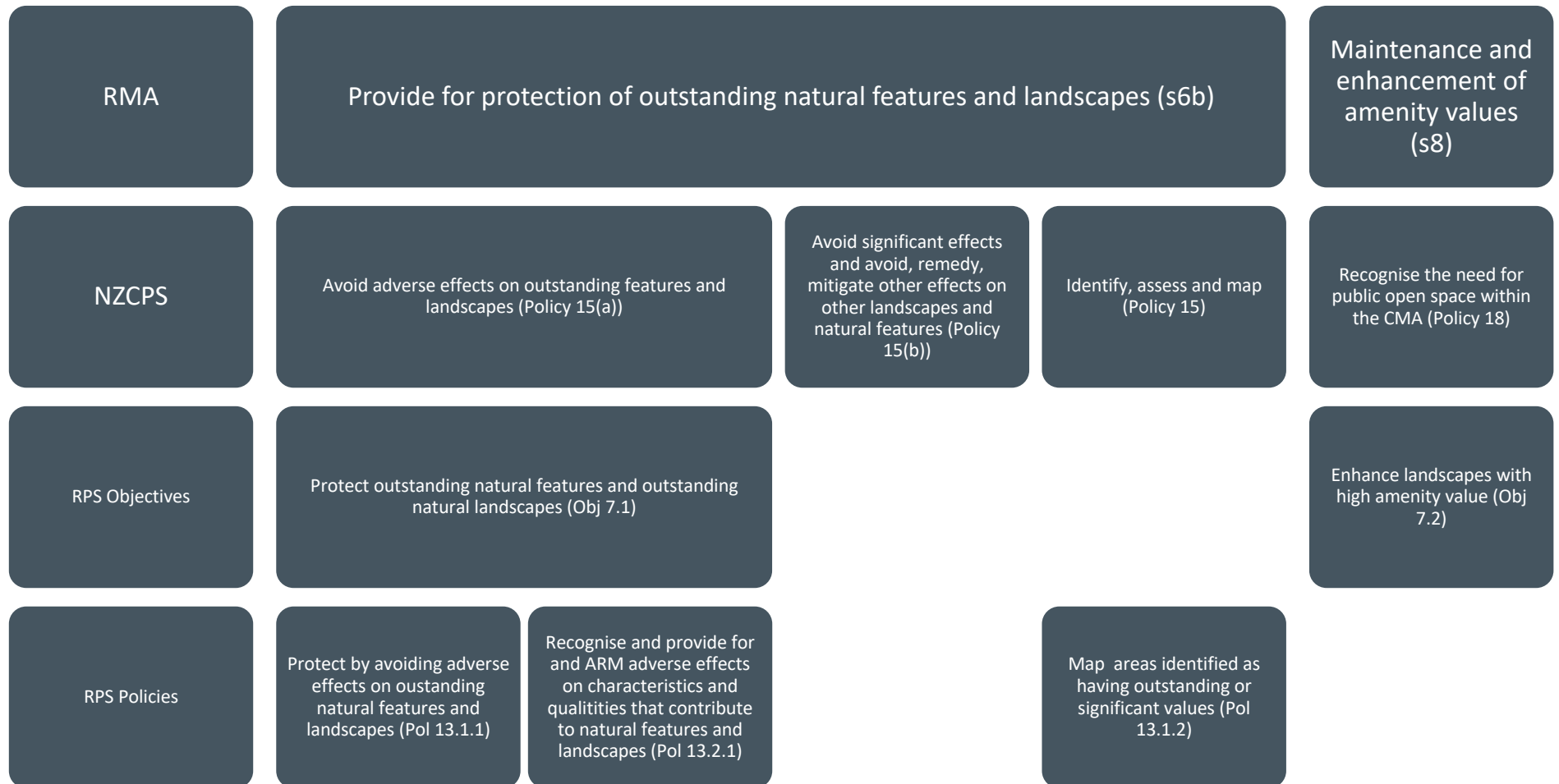
Conclusion on the scale and significance of the proposals

The proposed provisions are a significant departure from the current framework. The proposed Variation 1A implements a strategic and spatial approach to managing the locations of finfish farms. Benefits are anticipated for all users as a result. Continued risks associated with seabed health will be addressed through monitoring and adaptive management approaches.

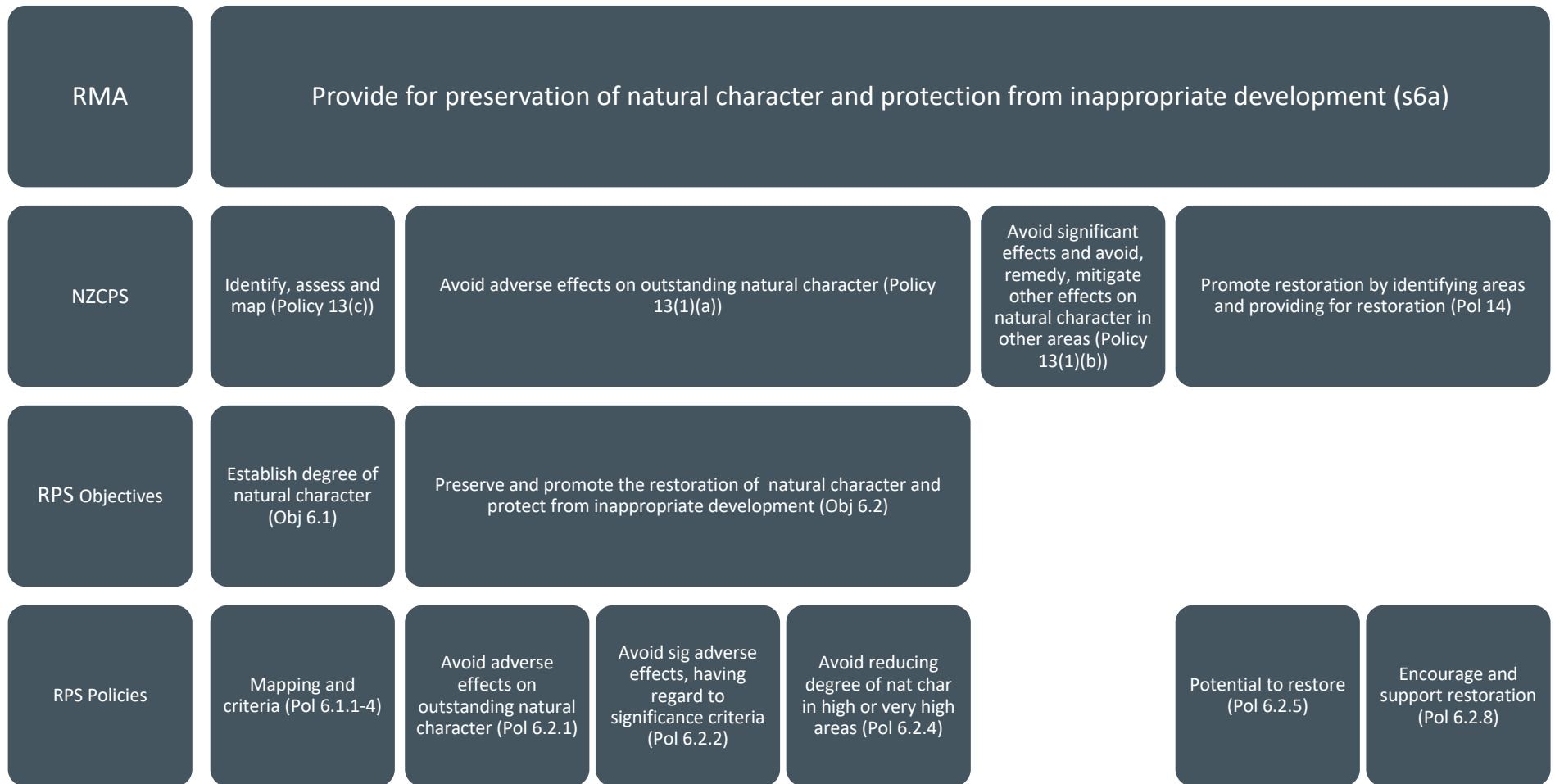
Overall, the issues addressed by proposed Variation 1A are of high significance and at a scale which potentially affects most if not all users of the enclosed waters Sounds. For that reason, a detailed s32 assessment has been undertaken.



Landscape



Natural Character



Public access

RMA

Provide for maintenance and enhancement of public access to and along the coastal marine area (s6d)

NZCPS

Maintain and enhance public open space and recreation opportunities (Obj 4)

RPS Objectives

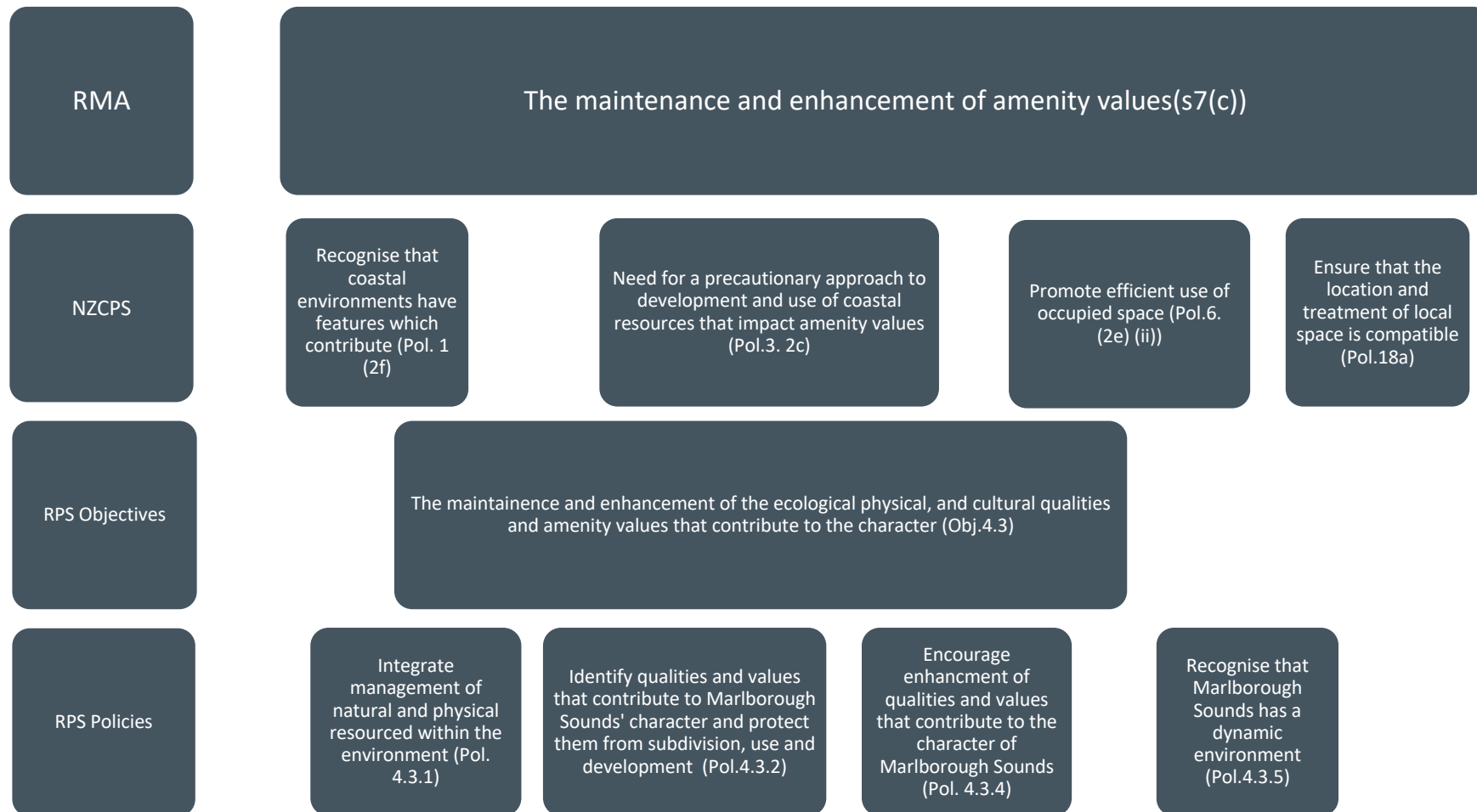
Public are able to enjoy amenity and recreational opportunities of coast (Obj 9.1)

Public access to and along the coast only restricted where necessary (Obj 9.2)

RPS Policies

Areas of high importance for public access includes CMA (Pol 9.1.1)

Amenity values



Biodiversity

RMA

Protection of significant indigenous vegetation and habitats of indigenous fauna (s6c)

NZCPS

Avoid adverse effects of activities on threatened, rare or protected taxa and ecosystems and Avoid significant adverse effects of activities on important, vulnerable indigenous fauna (Pol 11)

RPS Objectives

Protect intrinsic values of remaining biodiversity in terrestrial, freshwater and marine environments (Obj.8.1)

Increase in area/extent of biodiversity and restoration or improvement areas that have been degraded (Obj. 8.2)

RPS Policies

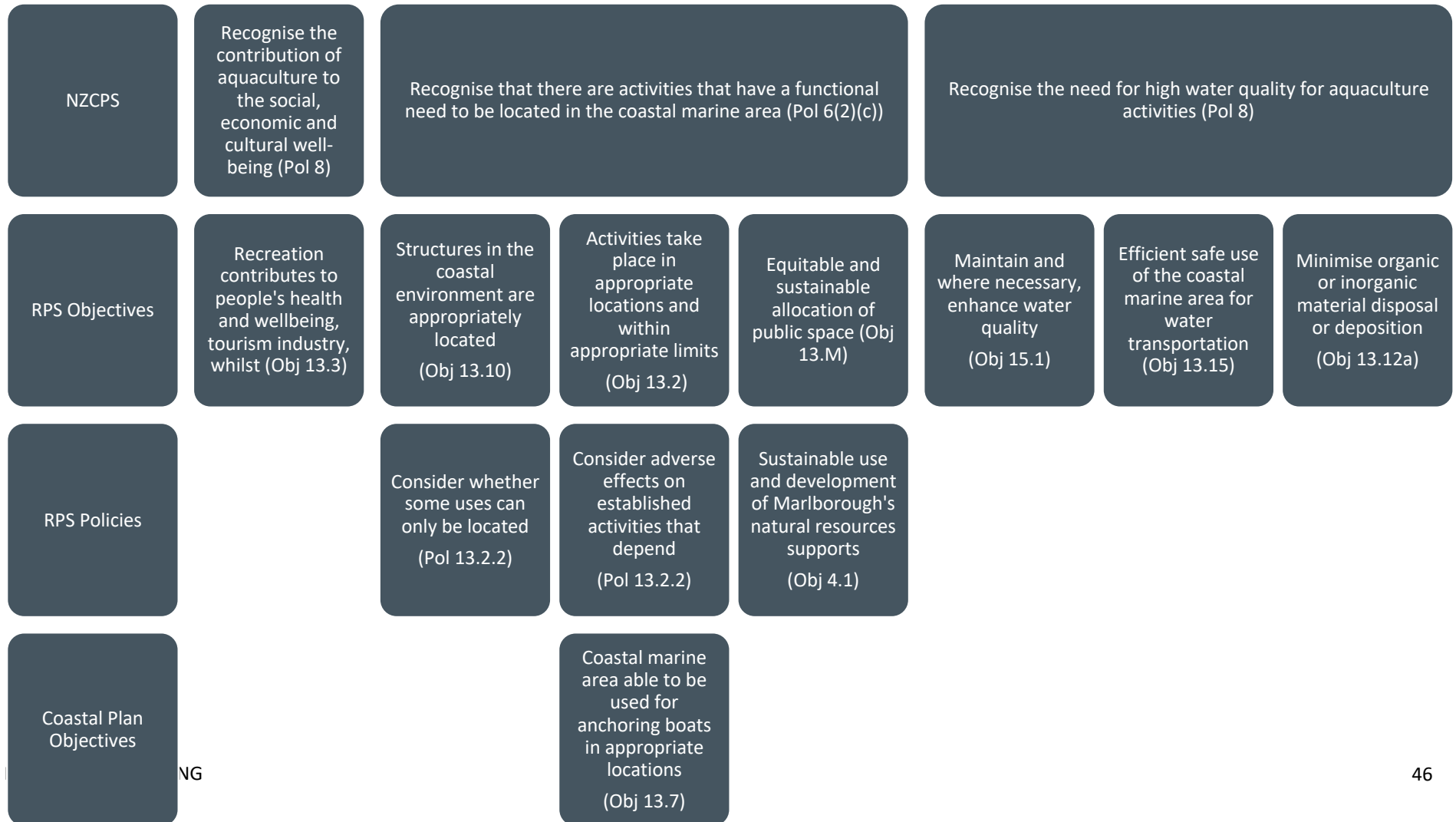
Identify sites, areas and habitats with significant indigenous biodiversity value (Po.8.1.1)

Avoid adverse effects consistent with NZCPS incl on identified habitats (Policy 8.3.1, 8.3.2)

Promote importance of biodiversity to public and landowners (Pol. 8.2.11)

A variety of means will be used to assist the protection of biodiversity (Pol. 8.2.1)

Aquaculture



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Appendix 4: Part 7A of the RMA

The provisions in Part 7A of the RMA specifically relate to controlling occupation and allocation of coastal marine space for aquaculture. The provisions in this part of the RMA are very complex. There are some key requirements for allocation rules in a regional coastal plan. These include:

- **Section 165F** - a proposed regional coastal plan may include provisions to address the effects of occupation of the common marine and coastal area (including limits on character, intensity, scale of activities, size of space) and to manage competition for occupation of space. Applications can be processed and heard together.
- **Section 165G** - a proposed regional coastal plan may include a rule which specifies its method for allocating space in the common marine and coastal area for aquaculture. This method could be by public tender or any other method. *Section 165I* requires the method of offering authorisations to be made available by public notice.
- **Section 165H** - a regional council must have regard to and be satisfied about certain matters before including an allocation rule in a proposed regional coastal plan (see Chapter 7 of the report for details).
- **Section 165J** has the effect that a person cannot apply for a coastal permit authorising occupation of the space unless they hold an authorisation for that space and activity (or are the holder of an existing coastal permit for that space and activity); once an allocation rule has legal effect²⁶. The granting of an authorisation does not confer any right to the grant of a coastal permit in respect to that space (ie a consent to occupy is not guaranteed and could be refused) under *s165R*. Authorisations can be transferred between parties under *s165S* and authorisations will lapse after two years if a coastal permit is not applied for, subject to certain circumstances (*s165T*).
- **Section 165K** gives the Governor-General powers to direct a regional council by Order in Council, not to proceed with a proposed allocation of space, or, in proceeding, to give effect to matters specified in an Order. The section sets out the purposes for which such an order can be made, and what the Order can cover.
- **Section 165L** gives a regional council an option to request that the Minister approve a method of allocation of authorisations (either by public tender or another method), where there is actual or anticipated high or competing demands for coastal permits, which the council considers cannot be managed effectively through the regional coastal plan (either because there is no allocation rule, or the rule is unlikely to be effective). *S165N* sets out the details of that approval process. If a ministerial approval method is triggered, *s165M* provides for a stay on applications until the allocation process has been notified. *S165O* covers the period of approval and *s165P* sets out the process that must be followed by the regional council to carry out the allocation process.
- **Sections 165U to 165X** set out details about the public notice of offer of authorisations (165U), what an offer for an authorisation should cover (165V), the procedure that the regional council should follow in accepting any offers for authorisations (*s165X*); and that if an offer is accepted, an authorisation must be granted (*s165Y*).

²⁶ *S165Q* provides for similar restrictions, where a Ministerial approval process is being followed.

- **Section 165ZB** provides the Minister of Aquaculture with powers to suspend the receipt of applications for coastal permits for aquaculture activities, where requested to do so by a regional council. These powers are to be used in the case where the provisions of a regional coastal plan are ineffective to manage the high or competing demands for permits for aquaculture; and the regional council requires time to implement changes to the plan or some other method to deal with the demand. Such a suspension prevents further applications for a certain period, and with certain exceptions, as set out in *s165ZC*. The process for determining whether to grant such a request from the regional council is set out in *s165ZD*, and there is an option to extend the suspension (*s165ZE*) when more time is needed to put in place plan provisions.
- **Section 165ZF** provides for regional councils to request direction from the Minister of Aquaculture to process and hear together applications for permits for aquaculture, to enable this process to be more efficient and better able to assess cumulative effects. The process for the Minister to consider that request is set out at *s165ZA*; and provisions *s165ZB* to *165ZFH* cover the joint processing of applications.
- **Subpart 3 (sections 165ZG - 165ZJ)** deals with matters related to applications by existing consent holders for coastal permits, including preferential processing rights, how other applications are to be dealt with in order to prevent gazumping, and criteria to be used in assessing coastal permit applications. This includes any available monitoring data and the applicants conduct in relation to previous compliance with regional plan provisions and resource consent conditions (*s165ZJ*).
- **Subpart 4** deals with plan change requests and concurrent applications for coastal permits in relation to aquaculture activities, where at the commencement of *s55* of the RMA Amendment Act (No 2) (2011) aquaculture was a prohibited activity in the regional coastal plan and that rule was still operative when the plan change request was made.

Disclaimer

We have used various sources of information to write this report. Where possible, we tried to make sure that all third-party information was accurate. However, it's not possible to audit all external reports, websites, people, or organisations. If the information we used turns out to be wrong, we can't accept any responsibility or liability for that. If we find there was information available when we wrote our report that would have altered its conclusions, we may update our report. However, we are not required to do so.

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