



**MARLBOROUGH  
DISTRICT COUNCIL**



Only Marlborough

**Marlborough District Council**  
**Review of Responsible Camping Control Bylaw 2020**  
**Area, site and road assessments**  
**November 2021**

**Review of Responsible Camping Control Bylaw 2020 - Area, site and road assessments**

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## 1.0 Introduction

- 1.1 The Marlborough District Council reviewed its Freedom Camping Control Bylaw 2012 with 2016 amendments (2012 Bylaw) in 2019/20. After consultation and notification of a draft bylaw, the Responsible Camping Control Bylaw 2020 (2020 Bylaw) was adopted at an Extraordinary Council meeting on 27 November 2020, becoming effective from 1 December 2020.
- 1.2 In response to the adopted 2020 Bylaw, a claim for judicial review from the New Zealand Motor Caravan Association (NZMCA) was lodged with the High Court in May 2021. The main points from the NZMCA claim are that:
  - submitters were not given the chance to make submissions on the restriction of freedom camping to five sites in the District, and that
  - the Council did not undertake a complete assessment of all areas in the District (other than for the five sites) against the criteria in the Freedom Camping Act 2011 (FCA).
- 1.3 The Council decided to undertake further consultation to address these points and to consider other matters that have arisen since the 2020 Bylaw was adopted. This includes the impacts of the 2020 Bylaw during the 2020/2021 camping season, being the first season managed under the new bylaw, the Government's review of the FCA with some major changes proposed, the impact of Covid-19 and consideration of the effects on the Council's infrastructure of a significant storm event in Marlborough in July 2021.
- 1.4 As part of preparing a new draft bylaw for consultation, the area assessments in Appendices 1- 5 of this report have been undertaken to identify and assess land that is either Council controlled or managed throughout Marlborough, which has the potential to be used for freedom camping as provided for under the FCA. These assessments build on the work undertaken by Paul McArthur, a recreation consultant who assisted the Council in reviewing the 2012 Bylaw.
- 1.5 The aims of the area assessments are to:
  - consider all land controlled or managed by the Council within Marlborough where there is potential to camp in a vehicle (including road reserve);
  - provide a consistent approach to classification of land controlled or managed by the Council in relation to restrictions or prohibitions on freedom camping against the criteria set out in the FCA.

## 2.0 Requirements of the Freedom Camping Act 2011

- 2.1 The starting premise in the FCA is that freedom camping is permitted everywhere unless it is restricted or prohibited. Sections 10 and 12 of the FCA state respectively:
  - 10 *Freedom camping is permitted in any local authority area unless it is restricted or prohibited in an area—*
    - (a) *in accordance with a bylaw made under section 11; or*
    - (b) *under any other enactment.*
  - 12 *A local authority may not make bylaws under section 11 that have the effect of prohibiting freedom camping in all the local authority areas in its district.*
- 2.2 A bylaw is the instrument by which freedom camping can be prohibited or restricted in Marlborough. The FCA sets out the matters that may be considered by Council when making a bylaw in sections 11(1) and (2) of the FCA as follows:
  - 11(1) *A local authority may make bylaws—*

- (a) *defining the local authority areas in its district or region where freedom camping is restricted and the restrictions that apply to freedom camping in those areas;*
- (b) *defining the local authority areas in its district or region where freedom camping is prohibited.*

11(2) *A local authority may make a bylaw under subsection (1) only if it is satisfied that—*

- (a) *the bylaw is necessary for 1 or more of the following purposes:*
  - (i) *to protect the area;*
  - (ii) *to protect the health and safety of people who may visit the area;*
  - (iii) *to protect access to the area; and*
- (b) *the bylaw is the most appropriate and proportionate way of addressing the perceived problem in relation to that area; and*
- (c) *the bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990.*

### 3.0 Sites to be assessed

3.1 The following land is considered “in-scope” and has been assessed:

- Council administered land that is accessible and has a recognised safe parking area. This means that a vehicle (such as a campervan) can safely access the site by road verge or formed road.
- Formed roads administered by the Council and which are accessible by 2WD including road ends.
- Specific roads (roads that have been assessed are included within each of the relevant area assessments)
- Specific reserves administered under the Reserves Act 1977, which have vehicle access and a formed parking area.

3.2 The assessments are grouped under five areas, which are geographically shown in Figure 1. The areas are 1. Marlborough Sounds, 2. North Marlborough, 3. Wairau Plains, 4. Southern, Waihopai and Wairau Valleys and 5. South Marlborough. Within each of these there are areas, sites (which may include reserves) and roads that have been assessed. In all 43 area assessments have been undertaken.

3.3 A summary table can be found in section 9.0 of this report of the assessments undertaken and the relevant sections of s11(2) of the FCA as to why restrictions or prohibitions have been put in place for freedom camping in Marlborough.

### 4.0 Sites excluded from the area assessments

4.1 Some land has not been assessed and the circumstances and reasons for this are set out below:

- Private land and private roads – where land is owned by private persons/companies, for the purposes of freedom camping, this is beyond the control of the Council and cannot be managed under the FCA.
- Unformed legal road - while legal roads have exactly the same legal status as any public road, in that they remain open to public access, in practical terms they often not easily accessible. Some are part of farmland, some are too rough to cross or traverse coastal cliffs or there are not practical connections with formed road. Therefore no assessment of these areas has occurred.
- Public land other than that administered by the Council – this includes lands administered by the Department of Conservation, Land Information New Zealand or Waka Kotahi NZ Transport Agency (Waka Kotahi) or other crown agencies. The Council does not have control over other public land so it cannot manage freedom camping on this land under the FCA.

There is one exception to this and this is land administered by Waka Kotahi at Lake Elterwater. This area of state highway has been assessed for the purposes of freedom camping. The Council is in discussions with Waka Kotahi on establishing a “delegation of use” for the land to be used as a freedom camping site.

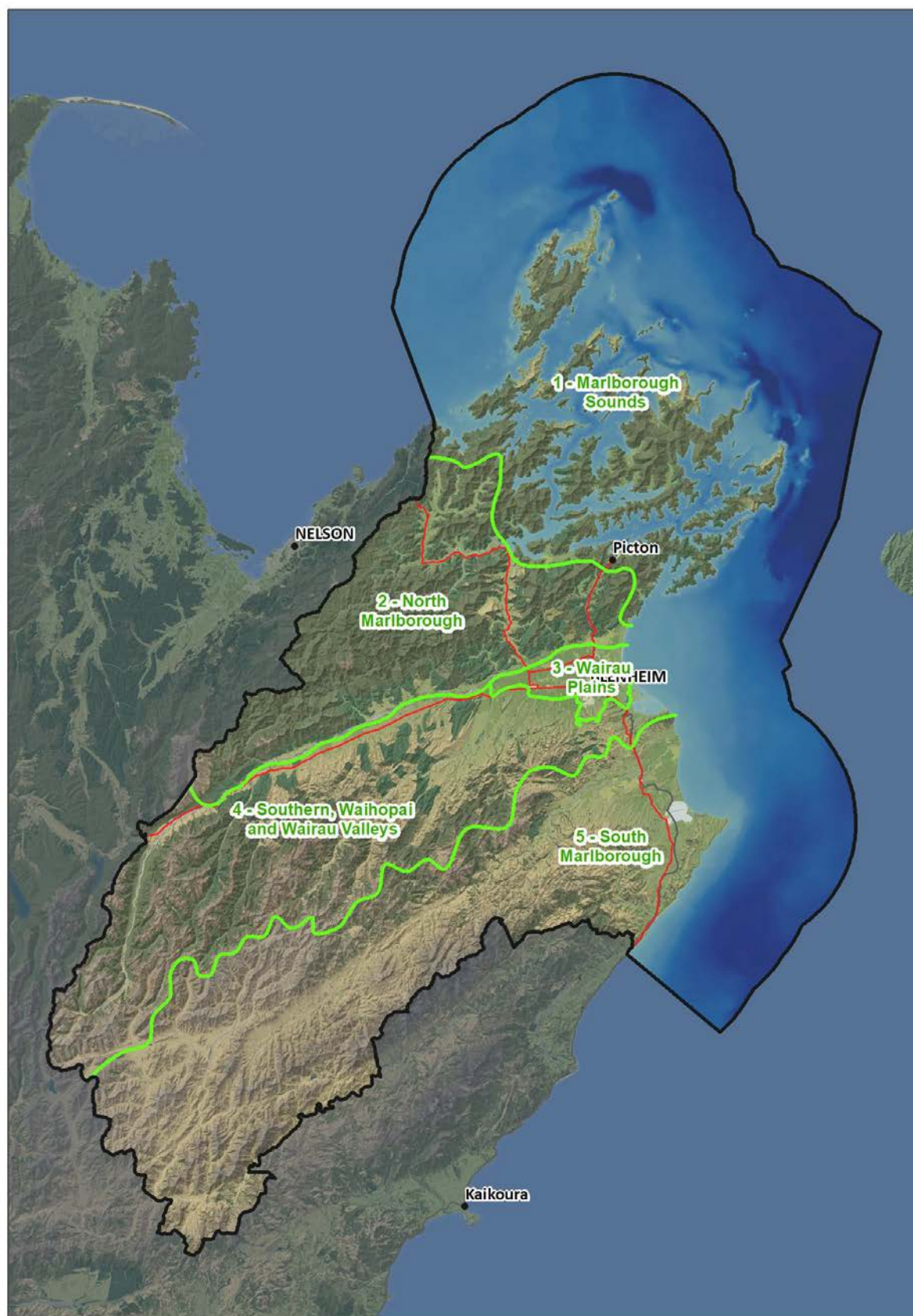


Figure 1: Areas of Marlborough within which assessments have been undertaken

- Cemeteries – all cemeteries have a high level of cultural and historical significance and as such are considered inappropriate for freedom camping. This includes cemeteries that are open, i.e. where interments still occur or cemeteries that are closed, i.e. where no interments take place.
- Occupied Council land – this is Council administered land including reserves that are occupied under a commercial or community lease or licence or occupied by Council for administration/operational purposes. This includes land leased for viticulture or farming purposes.
- Land not accessible by vehicle – some Council owned or administered land is not readily accessible by vehicles, including areas within the Marlborough Sounds or alongside rivers. These lands have not been assessed.
- Nohoanga – Ngāi Tahu manages a nohoanga site on the Waima (Ure) River in south Marlborough that may be used for camping. Under the Ngāi Tahu Claims Settlement Act 1998, nohoanga sites are specific areas of Crown-owned land adjacent to lakeshores or riverbanks, which can be used to facilitate the gathering of food and other natural resources by Ngāi Tahu Whānui.

## 5.0 Reserves Act 1977

- 5.1 Unlike the FCA where freedom camping is permitted everywhere unless otherwise restricted or prohibited, under the provisions of the Reserves Act 1977 the reverse applies. Of particular relevance is section 44 of the Reserves Act, which does not allow camping in reserves unless this is consented by the Minister of Conservation or is provided for in a reserve management plan prepared under the Reserves Act. (A delegation has previously been made from the Minister of Conservation to local authorities to administer section 44 of the Reserves Act and consent to camping in reserves.)
- 5.2 With the exception of the Havelock Domain, none of the reserves in Marlborough for which a reserve management plan is in place specifically provides for camping to occur. Nor has the Council made a specific decision to authorise camping on reserves the Council owns or administers (except as explained in paragraph 5.4). The default position in the Reserves Act therefore makes camping a prohibited activity on reserves owned or administered by the Council.
- 5.3 The following campgrounds enable camping on reserve lands administered by the Council through a formal lease.
- Alexanders Holiday Park – Picton
  - Havelock Holiday Park – Havelock
  - Awatere Settlers Motor Camp – Seddon
- 5.4 These lands, or the parts of these lands that are leased for this purpose, have not been included in the area assessments.
- 5.5 If, as a consequence of the 2020 Bylaw review there is proposed to be freedom camping on Council administered reserve land, a specific resolution will be required of the Council, acting under a Reserves Act delegation from the Minister of Conservation, to allow this. This process is considered more practical than reviewing the relevant reserve management plans to allow for camping due to the lengthy timeframe required for review. Additionally, given the old age of many plans, it would be more appropriate to use the opportunity to review the entire plans, not just whether camping should be allowed, which would take an even longer period of time. Therefore the use of a delegation under the Reserves Act is more efficient.
- 5.6 In using this method to allow for camping, consultation with the relevant communities of interest and consideration of their views would be necessary to inform the Council's decision. It is also important to consider whether freedom camping is appropriate in terms of the purpose for which a reserve has been vested or gazetted under the Reserves Act e.g. local purpose, scenic, recreation.



## 6.0 Resource Management Act 1991

6.1 In addition to the requirements of the Reserves Act, there are also potentially resource consent requirements that need to be addressed under the following three resource management plans<sup>1</sup>:

- Marlborough Sounds Resource Management Plan (MSRMP) - operative
- Wairau/Awatere Resource Management Plan (WARMP) - operative
- Marlborough Environment Plan (MEP) - proposed

(The MEP is at the appeal stage meaning that where its provisions have not been appealed, they will be operative instead of the equivalent provisions in the MSRMP or the WARMP.)

6.2 The reserve type zonings in the MSRMP and WARMP are Local Recreation (neighbourhood type parks generally), District Recreation (larger parks including sports parks) and Conservation (often alongside the coast or rivers and includes most of Department of Conservation administered land). There are no specific freedom camping provisions within the two fully operative plans although there are discretionary activity rules for camping grounds and visitor accommodation in several of the zones.

6.3 In the MEP, the reserves zonings are generally Open Space 1, 2 and 3. There are specific rules for freedom camping for Open Space Zones 2 and 3. In these two zones, freedom camping is a permitted activity except where the area is identified as a prohibited area in a bylaw made by the Council. For Open Space 1, there are no permitted activity rules for freedom camping and a resource consent is required to enable this activity.

6.4 For roads managed by the Council, resource consent is required for any freedom camping in the road corridor through Rule 2.23.2, being a use of land not provided for as a permitted activity. Consent may also be required in other zones where freedom camping has not been specifically provided for e.g. Floodway Zone.

6.5 For the five freedom camping sites in the 2020 Bylaw resource consent is required at four sites as set out in the following table. Consent is currently being sought for these four sites.

Existing Freedom Camping Site	MEP Zone	Need Consent Y/N
Taylor Dam	Floodway Zone	Y
Wairau Diversion	Floodway Zone	Y
Wynen Street, Blenheim	Business 1	Y
Renwick Domain	Open Space 2	N
Lake Elterwater	Road	Y

6.6 Once the area assessments are complete in terms of the provisions of the FCA, and if further areas are considered appropriate for freedom camping, there will need to be consideration of whether resource consents are also required.

## 7.0 Assessments

7.1 Under the FCA, the Council may only make a bylaw if it is satisfied that a bylaw is necessary for the following purposes:

<sup>1</sup> As the Marlborough District Council is a unitary authority it has the functions of both a regional council and a district council. Accordingly the resource management plans prepared are combined regional policy statements, regional, coastal and district plans.

- To protect the area
- To protect the health and safety of people who may visit the area
- To protect access to the area

7.2 The report uses these purposes as the criteria for assessment and the following describes how these criteria have been interpreted in the assessments in Appendices 1 to 5. This interpretation is based on Paul McArthur's site assessment work and a review of several other councils' freedom camping site assessments. Further information about areas provided through the draft 2020 Bylaw has also been referenced in the following assessments where relevant as has other information that has become evident since the first assessments were prepared.

## Protect the area

Natural values	Consideration of whether there is the potential for effects on ecosystems, biodiversity, plants and wildlife.
Cultural and historical values	Identification of areas of significance for iwi and whether there are heritage values present.
Water quality and water quantity values	Identification of the potential for adverse effects on both coastal and freshwater quality and whether there will be a demand for freshwater.
Landscape and amenity values	<p>Determining the potential for effects on:</p> <ul style="list-style-type: none"> <li>• a loss of or compromised views from residential and commercial areas;</li> <li>• a reduction of natural and open space character and visitor experience; and</li> <li>• a loss of amenity for local residents including a loss of privacy and from noise from camping activity and the arrival and departure of campers.</li> </ul>
Recreation assets	Consideration of what recreation facilities are in place, what the capacity of the area is and the potential for damage to facilities or land.

## Protect the health and safety of people who may visit the area

Natural hazards	Identification of areas with flood hazard, potential for landslips and fire hazard. (Note that all of Marlborough's coast line has been identified as having an inundation risk from tsunami. While this is a risk it has not been included in the assessments as there is existing residential activity occurring within these zones – more information on the inundation areas can found on the Council's website. Additionally, Marlborough sits in an area of high earthquake risk but this has not been specifically factored into the area assessments.)
Built environment hazards	Consideration of what is the nature of existing infrastructure including the type of roads and their use, any contaminated site issues, and other infrastructure issues.
Human hazards	Identification of any issues with the safety of vehicles entering and leaving a site, potential impacts on residents' physical health and wellbeing from unhygienic practices and the likelihood or risk of verbal or physical abuse between communities of users (local and visitors).

## Protect access to the area

Restrict access	Determining the extent to which access to an area may be restricted for residents and other non-camping visitors (e.g. ability to access residential areas, boat ramps, foreshores, car parks, rivers, reserves, sports, recreation and community facilities). Consideration is also given to whether access to an area is hindered for emergency services, service vehicles (e.g. rubbish trucks), public transport, school buses and maintenance vehicles.
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Discourage access      Whether high use of an area by freedom campers would discourage other users by reducing the experience and appeal to visit the area.

## 8.0 Assessment methodology

- 8.1 The scoring method is based on the three assessment criteria set out in the FCA. Each area has been allocated a score from 1 (being the lowest) to 5 (being the highest). The total score of each of the three criteria combined provides the total significance score.

Score	
1	No concerns
2	Minor concerns
3	Moderate concerns
4	Significant concerns
5	Very significant concerns

- 8.2 If the score is 8 or below, camping may be permitted at the area with some restrictions placed on the conditions specific to the type of camping or duration for camping at the area.
- 8.3 However, if the score for any one of the three criteria is 5, this means the area is deemed to have a “very significant issue(s)” and freedom camping should be prohibited. This is regardless of whether the total score is 8 or below. Camping should also be prohibited when the total score is between 12 and 15 as there are significant issues across all three FCA criteria.
- 8.4 Where the score is 9 or above, this means that the area has some significant issues and freedom camping may be prohibited dependent on whether the issues of concern can be practically or appropriately mitigated.

## 9.0 Summary of assessments

- 9.1 All individual area assessments are detailed in Appendices 1 to 5. A summary of the scores for each assessment is included in Table 2. For those areas where freedom camping is considered acceptable, Table 1 sets out these areas.

**Table 1: Summary of assessments where freedom camping may be acceptable**

No.	Area name	Score – Protect the area	Score – Protect health and safety	Score – Protect access	Total Score	Assessment	FCA S11(2)(a)
16.	Opouri Road (adjacent to Carluke Domain)	2	3	2	7	Acceptable with conditions	i, ii, iii
22.	Wairau Diversion	2	3	1	6	Acceptable with conditions	i, ii
23b.	Renwick Urban Area – Renwick Domain	2	2	2	6	Acceptable with conditions	i, ii, iii
24b.	Blenheim Urban Area – Wynen Street carpark	2	1	2	5	Acceptable with conditions	i, iii
25a.	Taylor Dam Reserve – upper level	2	3	2	7	Acceptable with conditions	i, ii, iii
31b.	Wairau Plains – west of State Highway 1 – roads to be identified	2	3	2	7	Acceptable with conditions	i, ii, iii
33b.	Southern Valleys – roads to be identified	2	3	2	7	Acceptable with conditions	i, ii, iii
34b.	Waihopai Valley – roads to be identified	3	2	2	7	Acceptable with conditions	i, ii, iii
35b.	Wairau Valley – roads to be identified	3	3	1	7	Acceptable with conditions	i, ii
37.	Blairich Reserve	3	4	1	8	Acceptable with conditions	i, ii
38b.	Awatere Valley Area – roads to be identified	2	3	2	7	Acceptable with conditions	i, ii, iii
40.	Lake Elterwater Road Reserve	3	2	2	7	Acceptable with conditions	i, ii, iii

**Table 2: Summary of all assessments**

No.	Area name	Score – Protect the area	Score – Protect health and safety	Score – Protect access	Total Score	Assessment	FCA S11(2)(a)
1.	D'Urville Island/Rangitoto ki te Tonga	4	5	3	12	Not acceptable	i, ii, iii
2	French Pass Township	4	2	5	11	Not acceptable	i, ii, iii
3.	French Pass Roads	3	5	3	11	Not acceptable	i, ii, iii
4.	Okiwi Bay Township	3	3	4	10	Not acceptable	i, ii, iii
5.	Havelock Urban Area	4	2	4	10	Not acceptable	i, ii

6.	Queen Charlotte Drive	3	5	4	12	Not acceptable	i, ii, iii
7.	Kenepuru Sound Roads	3	5	3	11	Not acceptable	i, ii, iii
8.	Double Bay Reserve	4	3	4	11	Not acceptable	i, ii, iii
9.	Ohingaroa Bay Reserve	4	2	4	10	Not acceptable	i, ii, iii
10.	Anakiwa Roads, Reserves and Village Green	4	4	4	12	Not acceptable	i, ii, iii
11.	Picton Urban Area	4	3	4	11	Not acceptable	i, ii, iii
12.	Port Underwood	4	5	3	12	Not acceptable	i, ii, iii
13.	Brown River	2	5	4	11	Not acceptable	i, ii, iii
14.	Alfred Stream	2	5	4	11	Not acceptable	i, ii, iii
15.	Rai Valley	3	4	2	9	Not acceptable	i, ii
16.	Opouri Road (adjacent to Carluke Domain)	2	3	2	7	Acceptable with conditions	i, ii, iii
17.	Te Hoiere/Pelorus Valley	4	4	3	11	Not acceptable	i, ii, iii
18.	Kaituna Valley and Northbank Valleys	3	4	2	9	Not acceptable	i, ii
19.	Koromiko, Para and Tuamarina	4	4	2	10	Not acceptable	i, ii
20.	Koromiko Recreation (Collins Memorial Reserve and Freeths Road)	4	3	4	11	Not acceptable	i, ii, iii
21.	Rarangi Blue Gum/Millennium Rock Road Reserve	5	1	4	10	Not acceptable	i, iii
22.	Wairau Diversion	2	3	1	6	Acceptable with conditions	i, ii
23a.	Renwick Urban Area	4	1	4	9	Not acceptable	i, iii
23b.	Renwick Urban Area – Renwick Domain	2	2	2	6	Acceptable with conditions	i, ii, iii
24a.	Blenheim Urban Area	4	4	4	12	Not acceptable	i, ii, iii
24b.	Blenheim Urban Area – Wynen Street carpark	2	1	2	5	Acceptable with conditions	i, iii
25a.	Taylor Dam Reserve – upper level	2	3	2	7	Acceptable with conditions	i, ii, iii
25b.	Taylor Dam Reserve – lower level	4	4	4	12	Not acceptable	i, ii, iii
26.	Wairau Plains – east of State Highway 1	4	5	4	13	Not acceptable	i, ii, iii
27.	Ferry Bridge Picnic Area	4	4	4	12	Not acceptable	i, ii, iii
28.	Grovetown Lagoon	5	3	4	12	Not acceptable	i, ii, iii
29.	River Reserve on Steam Wharf Road	4	4	4	12	Not acceptable	i, ii, iii
30.	River Reserve on Jones	3	4	4	11	Not acceptable	i, ii, iii

	Road						
31a.	Wairau Plains – west of State Highway 1	3	4	3	10	Not acceptable	i, ii, iii
31b.	Wairau Plains – west of State Highway 1 – roads to be identified	2	3	2	7	Acceptable with conditions	i, ii, iii
32.	Upper Spring Creek Reserve	4	4	4	12	Not acceptable	i, ii, iii
33a.	Southern Valleys	4	4	3	11	Not acceptable	i, ii, iii
33b.	Southern Valleys – roads to be identified	2	3	2	7	Acceptable with conditions	i, ii, iii
34a.	Waihopai Valleys	4	4	2	10	Not acceptable	i, ii, iii
34b.	Waihopai Valley – roads to be identified	3	2	2	7	Acceptable with conditions	i, ii, iii
35a.	Wairau Valley Township	4	3	4	11	Not acceptable	i, ii, iii
35b.	Wairau Valley – roads to be identified	3	3	1	7	Acceptable with conditions	i, ii
36.	Seddon Urban Area	4	2	4	10	Not acceptable	i, ii, iii
37.	Blairich Reserve	3	4	1	8	Acceptable with conditions	i, ii
38a.	Awatere Valley Area	4	4	2	10	Not acceptable	i, ii, iii
38b.	Awatere Valley Area – roads to be identified	2	3	2	7	Acceptable with conditions	i, ii, iii
39.	Marfells Beach Road	5	3	2	10	Not acceptable	i, ii, iii
40.	Lake Elterwater Road Reserve	3	2	2	7	Acceptable with conditions	i, ii, iii
41.	Ward Domain	4	3	4	11	Not acceptable	i, ii, iii
42.	Ward Roads	3	4	2	9	Not acceptable	i, ii, iii
43.	Lake Grassmere to Waima River Coast	4	3	4	11	Not acceptable	i, ii, iii

## References

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## **Appendices**

Appendix 1 – Marlborough Sounds

Appendix 2 – North Marlborough

Appendix 3 – Wairau Plains

Appendix 4 – Southern, Waihopai and Wairau Valleys

Appendix 5 – South Marlborough