

**IN THE ENVIRONMENT COURT OF NEW ZEALAND  
CHRISTCHURCH REGISTRY**

**I TE KŌTI TAIAO O AOTEAROA  
ŌTAUTAHI ROHE**

**EnvC**

**IN THE MATTER** of the Resource Management Act 1991 (RMA)

**AND**

**IN THE MATTER** of an appeal under Clause 14, Schedule 1 of the RMA

**BETWEEN** **DOMINION SALT LIMITED** a duly incorporated company having  
its registered office at 89 Totara Street, Mt Maunganui , New  
Zealand

**Appellant**

**AND**

**MARLBOROUGH DISTRICT COUNCIL**

**Respondent**

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**NOTICE OF APPEAL**  
**Dated this 28th day of April 2020**

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**GASCOIGNE WICKS**  
LAWYERS  
BLENHEIM

Solicitor: Quentin A M Davies and Joshua S  
Marshall  
(jmarshall@gwlaw.co.nz | qdavies@gwlaw.co.nz)

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## **Notice of Appeal to Environment Court against decision on a proposed Plan**

*Clause 14(1) of Schedule 1, Resource Management Act 1991*

**To:** The Registrar  
Environment Court  
Christchurch

### **Name of Appellant and Decision Maker**

- 1 Dominion Salt Limited (“Dominion Salt”), of Mount Maunganui, appeals against part of the decision of the Marlborough District Council (“MDC”) on the proposed Marlborough Environment Plan (“MEP”).
- 2 Dominion Salt made a submission on the MEP.

### **Trade Competition**

- 3 Dominion Salt is not a trade competitor for the purposes of s 308D of the Act.

### **Date of Decision appealed against**

- 4 The reasons for the decision were released from 21 February 2020 and the tracked changes decision version of the Plan was released on 3 March 2020.

### **Date on which Notice of Decision was received by Appellant**

- 5 Dominion Salt received notice of the decision on 21 February and 3 March 2020.

### **The Decision**

- 6 The parts of the decision that Dominion Salt is appealing is:

#### *Excavation Rule*

- (a) Rule 22.3.6.3 which prevents wheeled or tracked machinery from being operated within 8 metres of the lake, except when they are within the Salt Works Lake Maintenance Area.

#### *Administration, Workshop, Salt Refining and Processing Area*

- (b) The extent of mapping of the Lake Grassmere Salt Works Administration, Workshop, Salt Refining and Processing Area now shown on maps G1 and G4 of the 10,000 scale zoning maps in Volume 4.

*Internal Road Zoning*

- (c) The extend of road zoning within the Lake Grassmere Salt Works Zone shown on maps G3, G4 and G5 of the 10,000 scale zoning maps in Volume 4.

**Reasons for the Appeal**

- 7 The reasons for the appeal are as follows:

*Excavation Rule*

- (a) Almost all of the operation of the Lake Grassmere Salt Works occurs within Kapara Te Hau/Lake Grassmere.
- (b) The provision in rule 22.3.6.2 which restricted excavation within 8m of a river has been removed. However, rule 22.3.6.3 still restricts the operation of wheeled or tracked machinery within 8m of a lake except within the Salt Works Lake Maintenance Area.
- (c) “Operate” is not a defined term and it arguably applies to any movement of the vehicle. Since parts of the Salt Works Lake Maintenance Area are isolated from any road, it is not possible to move the vehicles into the area without operating them in breach of the standard (except by airlifting them in).
- (d) The restriction of excavation within 8m of a lake has now been removed. The effects of wheeled or tracked machinery will not be greater than that of excavation itself. Retaining the restriction in rule 22.3.6.3 is inconsistent with 22.3.6.2.
- (e) The intent of the rule was to restrict excavation within Ecologically Significant Marine Site 8.3 (which extends over the southern portion of Kapara Te Hau/Lake Grassmere) but the wording does not reflect that intent.

*Administration, Workshop, Salt Refining and Processing Area*

- (f) An area originally requested to be part of the Administration, Workshop, Salt Refining and Processing Area has been left out. This area is an obvious area for possible future expansion. It’s inclusion in the scheduled area will not have an adverse effect on the environment.

*Internal Road*

- (g) Two strips of land have the un-zoned 'road' status in the MEP. They are two of many internal roads which the public does not have lawful or practical access to. A search of the Land Information New Zealand Data Service shows that neither of these strips are legally roads.
- (h) Dominion Salt's operations overlap both of these areas of land. By being subject to different zoning rules, unintended complications will arise. There is no sustainable management reason why these areas should be zoned differently to the surrounding land.

**Relief Sought**

- 8 The Appellant seeks the following relief:
- (a) With respect to the excavation rule issue:
    - (i) Amendments to the relevant rules set out in Schedule A
  - (b) With respect to the Administration, Workshop, Salt Refining and Processing Area:
    - (i) Add the area specified in Schedule B to the Administration, Workshop, Salt Refining and Processing Area
  - (c) With respect to the internal road:
    - (i) Rezone the areas highlighted in Schedules C and D as Lake Grassmere Salt Works Zone.
  - (d) Any necessary consequential amendments; or
  - (e) Other equivalent relief.

**Attached Documents**

- 9 The following documents are **attached** to this notice:
- (a) A copy of Dominion Salt's submission (Schedule E);
  - (b) A copy of the relevant parts of the decision (Schedule F); and
  - (c) A list of names and addresses of persons to be served with a copy of this notice (at Schedule G).

*Joshua Marshall*

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Quentin A M Davies and Joshua S Marshall  
Solicitor for the Appellant

**Address for service of the Appellant**

Gascoigne Wicks, 79 High Street, Blenheim 7201.

Telephone: 03 578 4229

E-mail: jmarshall@gwlaw.co.nz and qdavies@gwlaw.co.nz

Contact person: Josh Marshall and Quentin Davies, Solicitors

**Note to appellant**

You may appeal only if—

you referred in your submission or further submission to the provision or matter that is the subject of your appeal; and

in the case of a decision relating to a proposed policy statement or plan (as opposed to a variation or change), your appeal does not seek withdrawal of the proposed policy statement or plan as a whole.

Your right to appeal may be limited by the trade competition provisions in Part 11A of the Resource Management Act 1991.

The Environment Court, when hearing an appeal relating to a matter included in a document under section 55(2B), may consider only the question of law raised.

You must lodge the original and 1 copy of this notice with the Environment Court within 30 working days of being served with notice of the decision to be appealed. The notice must be signed by you or on your behalf. You must pay the filing fee required by regulation 35 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003.

You must serve a copy of this notice on the local authority that made the decision and on the Minister of Conservation (if the appeal is on a regional coastal plan), within 30 working days of being served with a notice of the decision.

You must also serve a copy of this notice on every person who made a submission to which the appeal relates within 5 working days after the notice is lodged with the Environment Court.

Within 10 working days after lodging this notice, you must give written notice to the Registrar of the Environment Court of the name, address, and date of service for each person served with this notice.

However, you may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

## **Advice to recipients of copy of notice of appeal**

### *How to become party to proceedings*

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

### *How to obtain copies of documents relating to appeal*

If this appeal is being served on you in hardcopy, the copy of this notice served on you does not attach a copy of the appellant's submission or part of the decision appealed. These documents may be obtained, on request, from the appellant.

### *Advice*

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

## Schedule A

### 22.3.6. Excavation excluding where managed by the National Environmental Standards for Plantation Forestry 2017 as Earthworks.

- 22.3.6.1. Excavation in excess of 1000m<sup>3</sup> must not occur on land with a slope greater than 20° within any 24 month period.
- 22.3.6.2. Excavation must not be in, or within 8m of a river (except an ephemeral river when not flowing), or the coastal marine area.
- 22.3.6.3. Wheeled or tracked machinery must not be operated in or within 8m of a river (except an ephemeral river or intermittently flowing river, when not flowing), ~~lake~~ [Ecologically Significant Marine Site 8.3](#) (except within the Salt Works Lake Maintenance Area), or the coastal marine area
- 22.3.6.4. Batters must be designed and constructed to ensure they are stable and remain effective after completion of the excavation.
- 22.3.6.5. Water control measures and sediment control measures must be designed, constructed and maintained in an area disturbed by any excavation, such that the area is stable and the measures remain effective after completion of the excavation. The diameter of a culvert used to drain excavation must not be less than 300mm.
- 22.3.6.6. Excavation must not cause any conspicuous change in the colour or natural clarity of any flowing river after reasonable mixing.
- 22.3.6.7. Excavation must not cause water to enter onto any adjacent land under different ownership.
- 22.3.6.8. Excavation must not occur within an Ecologically Significant Marine Site except within the Salt Works Lake Maintenance Area.
- 22.3.6.9. Excavation within 100m of the zone boundary shall not exceed 500mm in depth.
- 22.3.6.10. Excavation anywhere within the zone must not exceed 1.5m in depth.





Area for inclusion

KAPARU ROAD

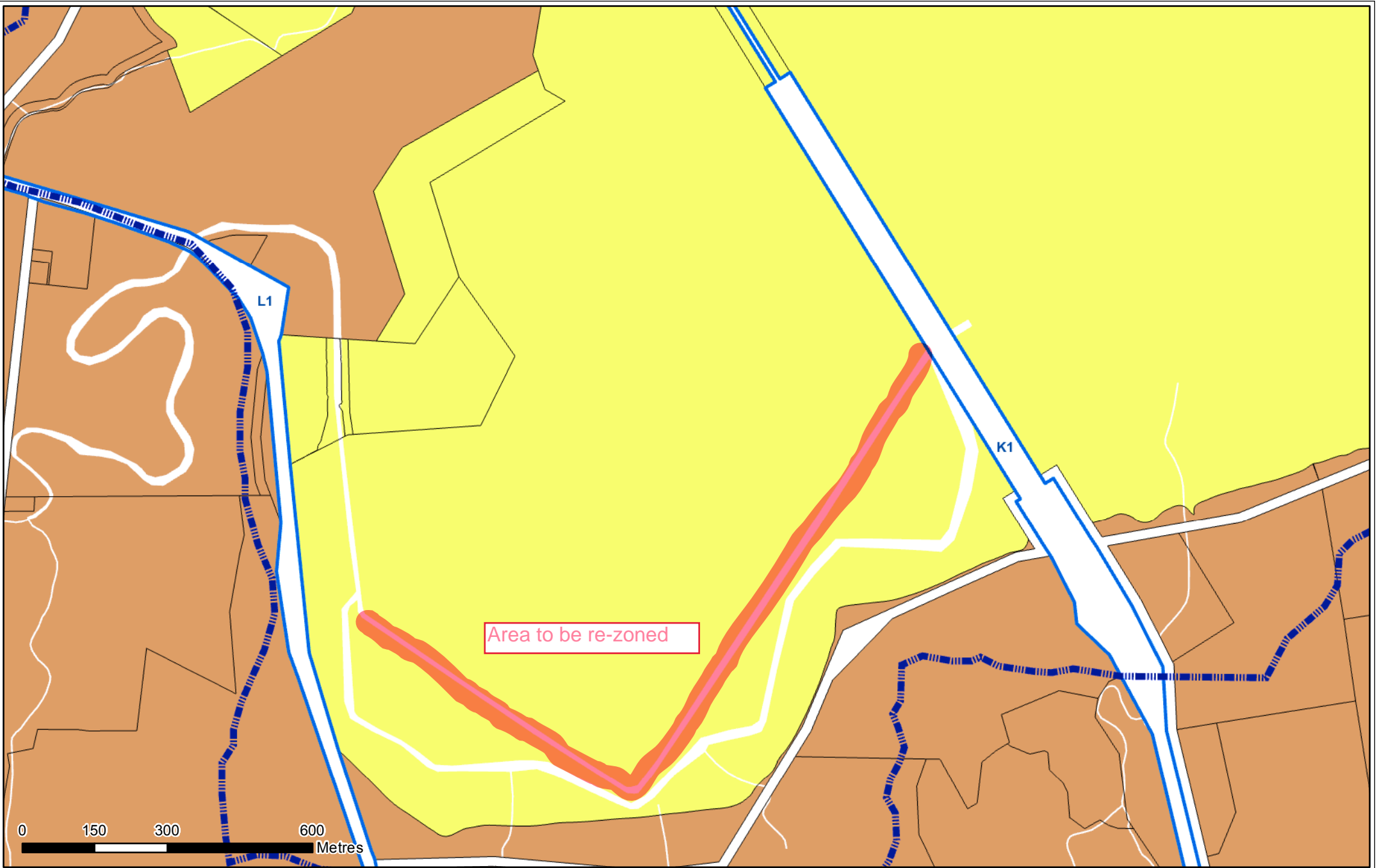
0 75 150 300  
Metres



The accompanying material has been released by Council from its information repositories. Council does not accept any responsibility for the initial and ongoing accuracy to the material. It is the responsibility of the recipient to make such checks as the recipient considers appropriate to ensure accuracy. Services layers are schematic only and actual positions and level should be confirmed from Council's hard copy records.

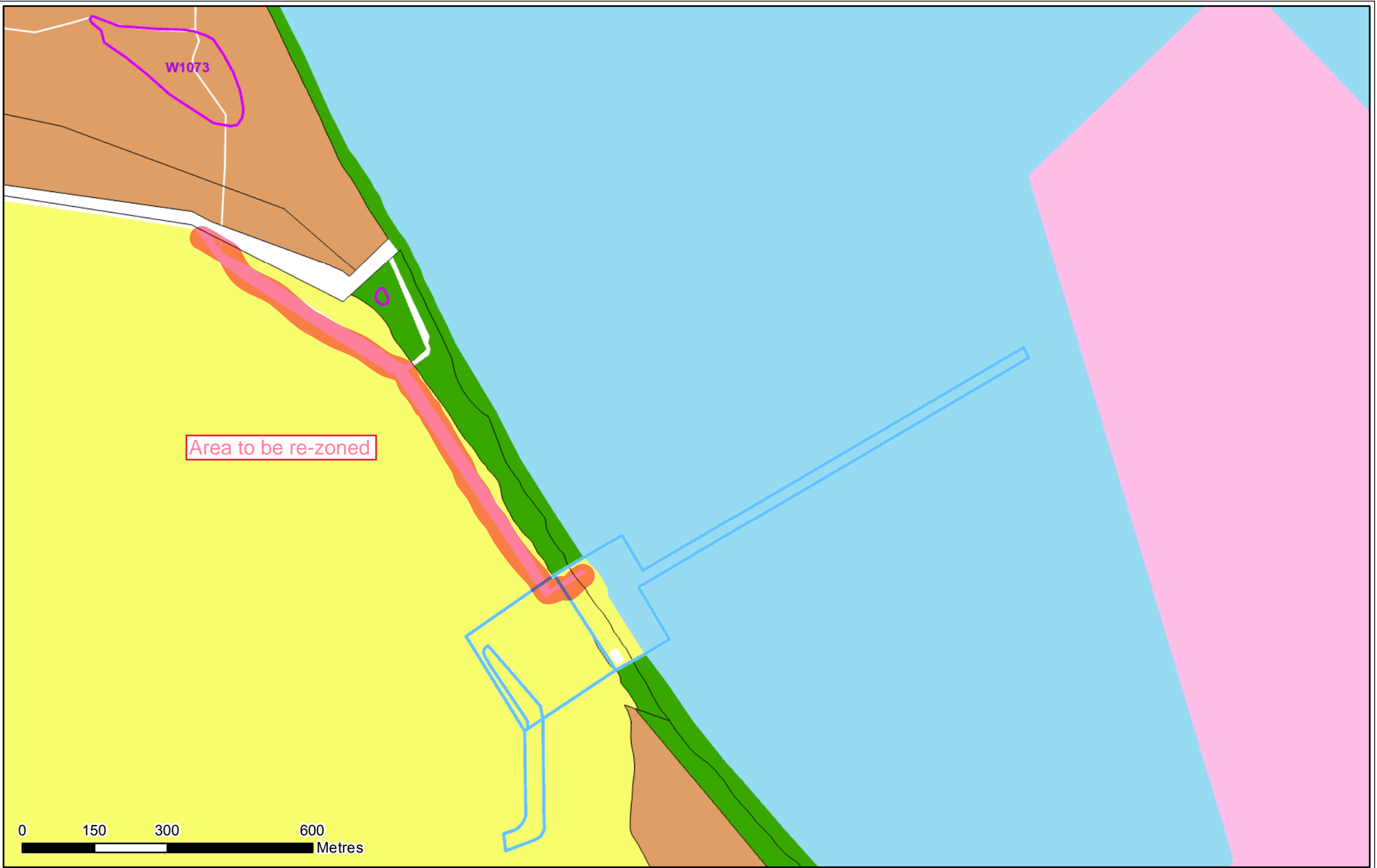
Schedule B





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Schedule C



Area to be re-zoned

W1073



The accompanying material has been released by Council from its information repositories. Council does not accept any responsibility for the initial and ongoing accuracy to the material. It is the responsibility of the recipient to make such checks as the recipient considers appropriate to ensure accuracy. Services layers are schematic only and actual positions and level should be confirmed from Council's hard copy records.

Schedule D

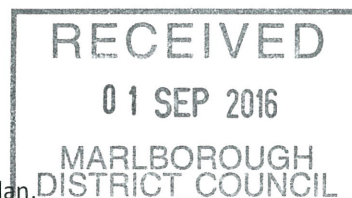
## Schedule E

### SUBMISSION ON PUBLICLY NOTIFIED PROPOSAL FOR POLICY STATEMENT OR PLAN, CHANGE OR VARIATION

*Clause 6 of First Schedule, Resource Management Act 1991*

To MARLBOROUGH DISTRICT COUNCIL

Name of submitter: DOMINION SALT LIMITED



1. This is a submission on the Proposed Marlborough Environment Plan.

2. We could not gain an advantage in trade competition through this submission.

The specific provisions of the proposal that our submission relates to are	Our submission is	We seek the following decision from the local authority
Volume 1 Policy 13.19.1	Support.	Retain Policy
Volume 1 Policy 13.19.2	Support.	Retain Policy
Volume 1 Policy 13.19.3	While Dominion Salt does not oppose a landcare group in principle, it does not appear to be necessary at this time.	Delete.
Volume 1 Policy 13..19.4	Support	Retain Policy
Volume 1 New policy 13.19.5	Recognise the positive environmental benefit the Salt Works provides, including flood mitigation on SH 1 and during summertime ensures sufficient water in the lake to prevent dust pollution and to enhance the habitat of indigenous flora and fauna.	Insert new policy.
Volume 2 22.1.1	Add 'and the full range of processes required' after 'by-products'. Retains words in WARMP.	Addition of these words.
Volume 2 22.1.2	Replace with 'building, bunds, roads and other developments'. Delete words 'existing at 9 June 2016'. Buildings appear to have been omitted unintentionally. The revised wording reflects the previous Plan. The development should not be restricted or limited from ongoing development.	Addition and deletion of the words as requested.
Volume 22.1.3	Separate 'take and use coastal water' from 'the maintenance of existing seawater intake' so that they are not read conjunctively. Adds clarity.	Amendment of documents as requested.
Volume 2 22.1.11	Include the words 'and greywater' after the word 'effluent'. Ensures	Addition of these words.

	that greywater is appropriately addressed.	
Volume 2 22.1.18	Remove the words 'other than' from the use of a moveable source. Unclear why that restriction is desirable or necessary.	Remove words as requested.
Volume 2 22.2.1.3	Delete the word 'notwithstanding' and replace with 'any building not coming within'. Amends error.	Replace words as requested.
Volume 2 22.3.4.1	Delete. Channel is almost always constructed after storm event. Restriction unnecessary.	Delete words as requested.
Volume 2 22.3.12.7 and 22.3.12.8	Delete both rules. These are existing activities that do not affect other neighbours or landowners.	Delete both rules.
Volume 2 22.4.1	Delete all of this rule, standards and matters reserved. These are largely existing activities which have no effect beyond the site.	Delete this rule.
Volume 2 22.4.2	Reinstate this rule as a permitted activity as in accordance with the existing Plan	Move to Permitted Activities.
Volume 4 Map 187	Extend area of 'administration, workshops, salt refining and processing area' south to provide for growth	Amend map
Volume 4 Map 187	Extend Lake Grassmere Salt Works Zone over adjoining roads, over Open Space Zone up to the edge of the Coastal Marine Area and encompass 25m either side of the pipelines and infrastructure inside the Coastal Marine Area. Zone should encompass all of the Salt Works area of operation.	Amend map
Volume 4 Threatened Environments: Indigenous Vegetation Site and associated rules and policies.	Remove overlay from (and adjacent to) edge of Lake Grassmere Saltworks Zone. Blanket restrictions are inappropriate in this location.	Amend Map.
Volume 4 ONL overlay Map 9	Remove ONL overlay from areas in or adjacent to the Zone. Area is not an ONL.	Amend map
Volume 4 Map 5 Natural Character	Remove areas within or adjacent to the Zone. Area does not have sufficient natural character.	Amend map

3. Consequential amendments to the commentary or other provisions are sought. Reasons for submissions include the proposed provisions are more appropriate, comply with s32 and accord with the purpose of the Act.
4. We wish to be heard in support of this submission.

5. If others make a similar submission, we will consider presenting a joint case with them at a hearing.



.....  
Brian A Fletcher

Solicitor for Submitter

Date: 1/9/2016

**Address for service of Submitter:**

Gascoigne Wicks

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Blenheim 7240

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Contact person: Brian A Fletcher

**Note to person making submission**

If you are making a submission to the Environmental Protection Authority, you should use form 16B. If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.

- She supports the industry submitters seeking that the standard restricting the use of commercial cleanfill for filling of the land is deleted from the Plan, and recommends all standards requiring filling *not to use commercial cleanfill* be deleted from the PMP.
- As a result of this conclusion, the report writer does not consider a definition for non-commercial cleanfill, as requested by MDC, is required.<sup>29</sup>

#### **Consideration and decision**

51. The restriction on the use of 'commercial cleanfill' should be removed from the plan as there is no difference in environmental effect.
52. Delete Standards 3.3.16.1; 4.3.15.1; 13.3.18.1; 14.3.9.1; 15.3.17.1; 17.3.5.1; 18.3.6.1; 19.3.6.1, and 22.3.7.1. As a consequential change, delete the definition of 'Non-Commercial cleanfill' given that the change above no longer results in a distinction between commercial and non-commercial cleanfill.

#### **Lake Grassmere**

##### **Rule 22.4.2. and Standard 22.3.6**

##### **Excavation of land exceeding 500mm in depth.**

53. The relevant standards and terms are as follows:

22.4.2.1. *The excavation must not exceed a depth of 1.5m.*

22.4.2.2. *The excavation must not occur further than 100 metres from the zone boundary.*

*Matters over which the Council has reserved control:*

22.4.2.3. *The excavation of test pits;*

22.4.2.4. *The protection of adjoining land from contamination by brine/saline water;*

22.4.2.5. *Transmissiveness of the soils media between the site of excavation and the zone boundary;*

22.4.2.6. *The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.*

54. Matter of control 22.4.2.1 requires any excavation greater than 1.5 metres in depth in Lake Grassmere to obtain resource consent as a discretionary activity.
55. Dominion Salt opposes Standard 22.4.2 which provides for a controlled activity status for the excavation of land exceeding 500 mm depth.<sup>30</sup> The submitter seeks that the standard is reinstated as a permitted activity as is the case in WARMP.

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<sup>29</sup> Section 42A Report, paragraphs 231-235.



**Section 42A Report**

56. The report writer reviewed the rule structure in WARMP and agrees that the excavation of land within 100 metres of the zone boundary, not exceeding 500 mm in depth, is able to be adequately managed through the permitted activity standards without the need to proceed through a resource consent process to impose further conditions. In reviewing the permitted activity standards, the report writer recommends an additional permitted activity standard is included which restricts the excavation of land within the Lake Grassmere Ecologically Significant Marine Site, so as to achieve the outcomes of the PMEP that relate to such significant sites.
57. The report writer identifies two further errors in the drafting of these standards which are able to be addressed within the scope of the submission received. Matter of control 22.4.2.1 requires any excavation to not exceed 1.5 metres in depth. The current WARMP standard framework requires any excavation greater than 1.5 metres in depth in the Lake Grassmere Zone to obtain resource consent as a discretionary activity. The report writer recommends an additional standard limiting the maximum excavation depth in the zone to 1.5m is included in standard 22.3.6. Any excavation within the zone deeper than 1.5 metres below ground level will require assessment via a resource consent process to impose further conditions if necessary. Further, Standard 22.3.6.2 requires excavation to not occur within 8 metres of a lake. As the entire area has been identified as a 'lake' this standard would limit any excavation from occurring within the zone without resource consent. Accordingly, the report writer recommends 'lake' is omitted from Standard 22.3.6.2.<sup>31</sup>
58. The report writer recommends the following changes to Rules 22.3.6 and 22.4.2 to remedy drafting errors in the PMEP:

*22.4.2 Excavation of land exceeding 500mm in depth and within 100 metres of the zone boundary:*

*22.4.2.1 The excavation must not exceed a depth of 1.5m.*

*~~22.4.2.1 The excavation must not occur further than 100 metres from the zone boundary.~~*

59. The following standards be added to Rule 22.3.6:

*22.3.6 Excavation*

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<sup>30</sup> Dominion Salt (355.16).

<sup>31</sup> Section 42A Report, paragraphs 197-198.

...  
22.3.6.2 *Excavation must not be within 8m of a river (except an ephemeral river when not flowing), lake (except during salt harvest operations) or the coastal marine area.*

...  
22.3.6.x *Excavation within 100m of the zone boundary shall not exceed 500mm in depth;*

22.3.6.x *Excavation must not occur within an Ecologically Significant Marine Site;*

22.3.6.x *Excavation anywhere within the zone must not exceed 1.5m in depth.*

60. In evidence, Dominion Salt agrees with the report writer's recommendations but seeks further relief in relation to Standard 22.3.6.8 which currently states: 'Excavation must not occur within an Ecologically Significant Marine Site'.

61. Dominion Salt wishes to continue to remove silt which drops out of suspension from water in the lake within the Ecologically Significant Marine Site (ESMS 8.3). Dominion Salt advised at the hearing the locations where limited work is sought to be undertaken within ESMS 8.3 in the Lake Grassmere Salt Works Zone. According to Mr Davies, there are three areas within the lake where this occurs (as shown by the crosshatch areas on Plan B appended to Mr McLeish's evidence). As a result of introducing Standard 22.3.6.8, undertaking the sediment removal activity within two of the identified areas would require a resource consent to be sought.

62. Mr Davies proposes a 'Salt Works Lake Maintenance' overlay is created and the following addition to Standard 22.3.6.8 is made:

*22.3.6.8. Excavation must not occur within an Ecologically Significant Marine Site except within the Salt Works Lake Maintenance Area Overlay.*

63. Mr Davies also seeks Standard 22.3.6.3 is amended to improve consistency with Standard 22.3.6.2. The following amendment is proposed:<sup>32</sup>

*22.3.6.3. Wheeled or tracked machinery must not be operated in or within 8m of a river (except an ephemeral river or intermittently flowing river, when not flowing, ~~lake (except during salt harvest operations)~~ or the coastal marine area.*

64. The report writer recommends the development of a 'Salt Works Lake Maintenance' overlay in accordance with Plan B of Mr McLeish's evidence and Standard 22.3.6.8 be amended as follows:<sup>33</sup>

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<sup>32</sup> Section 42A Report, Reply to Evidence, page 17.

22.3.6.8. *Excavation must not occur within an Ecologically Significant Marine Site except within the Salt Works Maintenance Overlay.*

65. And that Standard 22.3.6.3 be amended as follows:

*22.3.6.3 Wheeled or tracked machinery must not be operated in or within 8m of a river (except an ephemeral river or intermittently flowing river, when not flowing, ~~lake~~ except during salt harvest operations) or the coastal marine area.*

66. In response to the Panel's questions, Mr Davies provided a Memorandum of Counsel date 19 July 2018 in that he stated:

*At the hearing of Topic 19: Soil Quality and Land Disturbance on 4 July 2018, Dominion Salt Limited advised the locations where limited work is sought to be undertaken within the Ecologically Significant Marine Site in the Lake Grassmere Salt Works Zone. It sought for these areas to be included in a Saltworks Lake Management overlay.*

#### **Consideration**

67. The activity outlined in the evidence of Mr McLeish for Dominion Salt relates to Lake Grassmere which is a large shallow tidal lagoon that has been extensively modified by salt work operations, but the area is also an Ecologically Significant Marine Site (ESMS 8.3) and provides a significant bird habitat.

68. The Panel agrees that the salt works activity in Lake Grassmere should proceed as in WARMP.

69. The Panel agrees with the report writer's recommendations however, considers the following amendments to those suggestions are necessary:

- Provide an exception in the first new standard (that is, excavation must not occur in an Ecologically Sensitive Marine Site) to allow for ongoing maintenance of the lake bed.<sup>34</sup>
- Amend 22.3.6.2 so it does not constrain excavation of the lake.<sup>35</sup>
- Amend 22.3.6.3 so that the standard still applies to a lake (in contrast to the recommendation).<sup>36</sup>
- But provide an exception for wheeled or tracked machinery to operate in the Salt Works Lake Maintenance Overlay (that is, *lake except within the Salt Works Lake Maintenance Overlay*), or the ...

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<sup>33</sup> Section 42A Report, Reply to Evidence, pages 16-17.

<sup>34</sup> Section 42A Report, paragraph 246.

<sup>35</sup> Section 42A Report,

<sup>36</sup> Dominion Salt Ltd, Quentin Davies Submissions at the hearing.

- Prepare a Salt Works Maintenance Overlay as set out in the Memorandum of Counsel for the salt works.<sup>37</sup>
70. Rule 22.4.2 should be amended so that the depth limitation applies only within 100m of the zone boundary<sup>38</sup> (including deletion of 22.4.2.2).
71. The creation of the Salt Works Lake Maintenance Area, as outlined above, combined with a decision on another DSL submission point in the Topic 11: Coastal Environment decision, add additional overlays to the Plan. The effect of the overlays is to allow location specific rules apply to specific activities. The same also applies in the case of the existing Intake and Pipeline Extension Corridor.
72. Having made decisions on these submission points on their merits, but in isolation to each other, the Panel has reflected on the best structural option for giving effect to its decisions. As they stood, the decisions would introduce a level of complexity to the permitted activity rules in 22.1, and their accompanying standards in 22.2 The Panel considered that this complexity would create the potential for confusion in the implementation and administration of the rules.
73. In the process of considering a remedy to this matter, the Panel noted the content of Appendix 16 of Volume 3. As notified, Appendix 16 contains three scheduled sites<sup>39</sup> and it operates to allow a set of specific rules apply to each of the scheduled sites. This is exactly how the Salt Works Lake Maintenance Area and Salt Works Outlet Area (see Topic 11 decision) are designed to operate with respect to DSL's operations at discrete parts of Lake Grassmere.
74. The Panel has determined that Appendix 16 should therefore be utilised to provide for the rules that apply to each of the relevant spatial areas. To achieve this end, the relevant spatial areas have to be mapped as scheduled sites in the relevant zoning maps of Volume 4. This would have the effect of removing complexity from 22.1 and 22.2 of Volume 2. Those sections would simply contain the rules that apply to the Lake Grassmere Salt Works Zone in its entirety.
75. The Panel also noted that the Intake and Pipeline Extension Corridor operates in much the same way to the two new overlays: A discrete set of rules applies to specific activities in the

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<sup>37</sup> Memorandum of Counsel for Dominion Salt Ltd, 19 July 2018.

<sup>38</sup> Dominion Salt Ltd (355.16)

<sup>39</sup> Decisions on Topic 21: Zoning add two additional scheduled sites.

Corridor. For consistency, the Panel is making a consequential change to also relocate the rules that apply to the Corridor to Appendix 16.<sup>40</sup>

76. There is one further consequential change required to implement this structure and that is a minor change to the introductory wording of 21.1 to recognise that the rules in Appendix 16 may enable activities in addition to the rules of Chapter 22. A wording for doing so is set out below.

**Decision**

77. Rule 22.3.6 is amended as follows:

*22.3.6 Excavation*

...

*22.3.6.2 Excavation must not be in, or within 8m of a river (except an ephemeral river when not flowing), lake (except during salt harvest operations) or the coastal marine area.*

*22.3.6.3. Wheeled or tracked machinery must not be operated in or within 8m of a river (except an ephemeral river or intermittently flowing river, when not flowing), lake (except during salt harvest operations except within the Salt Works Lake Maintenance Area, or the coastal marine area.*

...

*22.3.6.x Excavation within 100m of the zone boundary shall not exceed 500mm in depth;*

*22.3.6.x Excavation must not occur within an Ecologically Significant Marine Site except within the Salt Works Maintenance Area.*

*22.3.6.x Excavation anywhere within the zone must not exceed 1.5m in depth.*

78. Amend 22.4.2 as follows:

*22.4.2 Excavation of land exceeding 500mm in depth and within 100 metres of the zone boundary:*

*22.4.2.1 The excavation must not exceed a depth of 1.5m.*

*~~22.4.2.2 The excavation must not occur further than 100 metres from the zone boundary.~~*

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<sup>40</sup> The Panel has also decided to delete Appendix 21 as a result of accurately mapping the Intake and Pipeline Extension Corridor on the relevant zoning maps.

79. The Salt Works Lake Maintenance Area, in addition to the Salt Works Outlet Area and the Intake and Pipeline Extension Corridor, are to be depicted as scheduled sites on the relevant zoning maps in Volume 4.
80. The rules and standards applying to the new Salt Works Lake Maintenance Area, in addition to the new Salt Works Outlet Area and the existing Intake and Pipeline Extension Corridor, are added to Appendix 16 of Volume 3 as a new schedule, as follows:

## **Schedule 7 – Salt Works Outlet Area, Lake Grassmere Salt Works Intake and Pipeline Extension Corridor and Salt Works Lake Maintenance Area.**

Where not otherwise expressly provided for, or limited by, the rules in Schedule 7 of Appendix 16, the rules of the Lake Grassmere Salt Works Zone apply to all activities when undertaken by the operator of the salt works within the in the Salt Works Outlet Area, Lake Grassmere Salt Works Intake and Pipeline Extension Corridor and the Salt Works Lake Maintenance Area.

## **Schedule 7A – Salt Works Outlet Area**

### **7A.1 Permitted Activities**

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Unless expressly limited elsewhere by a rule in the Marlborough Environment Plan (the Plan), the following activities shall be permitted without resource consent when undertaken by the operator of the salt works within the Salt Works Outlet Area identified in Appendix 21, and where they comply with the applicable standards in Chapter 22:

[D]

**7A.1.1 Buildings, bunds, roads and other developments existing at 9 June 2016.**

[D]

**7A.1.2 Maintenance of existing seawater intake pipelines and associated structures**

[C]

**7A.1.3 Discharge of stormwater from Lake Grassmere and surrounding catchments or diluted brine to the coastal marine area.**

[C,D]

**7A.1.3 Construction and use of a temporary stormwater flood outlet channel from Lake Grassmere to the coastal marine area, including any disturbance of the foreshore and seabed.**

[R, D]

**7A.1.4 Activities permitted in the Open Space 3 Zone.**

### **7A.2 Standards that apply to all permitted activities**

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241. The second recommendation of the report writer, retaining a strip of Open Space 1 zone of the same dimensions as Rule 24.1.18 (i.e., 3 metres), has been carefully considered by the Panel. The report writer considered that this outcome would meet both of the needs identified above
242. That may be the case, but that remedy ignores current land use and what is physically on the ground on the relevant properties. With the exception of the seawall, all of the land is open space, including a formed pathway. The land is not obviously used for marina purposes. Rezoning some of the land as Marina Zone would risk the public's current opportunity to utilise these strategic land parcels (with or without future connection around the remainder of the marina). The Panel is reluctant to remove or reduce the extent of this opportunity given that the land is within one of Marlborough's significant urban communities.

**Decision**

243. That the submission by PMNZ is rejected and the land adjoining 39 and 41 Waikawa Road (shown in Annexure B of the PMNZ submission) is retained as Open Space 1 Zone.

**Lake Grassmere – Zoning maps 187, 188, 203**

**Introduction**

244. Dominion Salt Limited (DSL) operates a solar sea salt production field, refining and processing facilities at Lake Grassmere Marlborough.
245. The Lake Grassmere operation is not only significant for the manufacturing and employment opportunities it brings to Marlborough but DSL's management practices maintain sustainable water levels in the lake year round providing flood control in winter and supporting significant flora and fauna in the area. A DOC summary report for the South Marlborough SNA Programme in 2004 identified the lake is nationally significant for five species of birds, and regionally significant for five others either for feeding, roosting or breeding. An additional MDC Report in 2005 provided further details on the ecological significance of the Lake Grassmere area.<sup>60</sup> DSL has indicated its support for the setting up of a Landcare Group by residents for the area.<sup>61</sup>
246. A number of submission points were received in relation to Zoning Map 187 from DSL variously seeking: extension of the Lake Grassmere Salt Works Zone over adjoining roads, over

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<sup>60</sup> North, M. 2004 Wairau Ecological Region – Blenheim, Grassmere, Flaxbourne, Wither Hills and Hillersden Ecological Districts. Survey report for the Protected Natural Areas Programme. Occasional Publication No. 60. Department of Conservation, Nelson at 139. Appendix 2.

Marlborough District Council. July 2005. South Marlborough: Significant Natural Areas Project – A Summary of Results from an Ecological Survey of Significant Natural Areas on Private Land in Marlborough, south of the Wairau River at 51.

<sup>61</sup> Section 42A Report, Reply to Evidence, page 106.

the Open Space area bordering the coastline so that it encompasses 25 metres either side of the pipeline and infrastructure within the Coastal Marine Area; inclusion of the area to the south as highlighted in the plan, used for 'administration, workshops, salt refining and processing area'.<sup>62</sup> This area is also zoned within the Lake Grassmere Salt Works Zone. DSL consider the zoning sought is indistinguishable from land on the site already used for this purpose and initially did not provide any maps to support the proposed extensions.

#### **Site Visit**

247. The Panel undertook a site visit to familiarise itself with DSL's operation in December 2018. Only when seen from the hill to the south, looking down on the operation is its large scale appreciated. The site visit provided clarity as to the requested zoning of the site, the expansion of its facilities, together with the accuracy of the location and dimensions of the Lake Grassmere Salt Works Intake and Pipeline Extension Corridor. Of importance was the proposal to create the new Salt Works Outlet Area which would incorporate both the Salt Works Zone and Open Space 3 Zone and the extent of the proposed additional administration areas.

#### **Issues Arising**

- Extent of the Lake Grassmere Salt Works development.
  - Accurate mapping of the pipeline.
  - Length of the Pipeline Corridor.
  - New Salt Works Outlet area.
  - Panel's site visit.
  - Rules as amended.
248. In order to further clarify these issues, the Panel made several requests for further information from Dominion Salt Limited both during the hearing and via minutes after. These responses included the following:
- Supplementary legal submissions in response to questions from the Panel provided during the hearing;
  - Response to Minute 18 of the MEP Hearing Panel; and
  - Response to Minute 34 of the MEP Hearing Panel.

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<sup>62</sup> DSL (355.017), Memorandum dated 24 April 2018.

249. Figure 11.3 attached to this decision, taken from DSL's memorandum in response to Minute 18, now contains an accurate map reflecting the zoning amendments the company seeks. It is the result of the new assessments illustrating the changes to be made. It encompasses its operations in respect of the current and old intake pipelines. The Panel as a result of this amendment, sought further clarification from DSL if Appendix 21 to the notified plan is still accurate.
250. DSL responded that factually, Appendix 21 does not entirely encompass its operations in the intake area. The old intake pipeline is approximately only 4 metres outside the boundary of Lake Grassmere Salt Works Zone Intake and Pipeline Extension Corridor.

### **Extent of the Salt Works Development**

#### **Section 42A Report**

251. The report writer initially recommended there was no clear justification for the expansion of the Lake Grassmere Salt Works Zone although it was foreseeable that production of solar salt may require expansion of some areas of the operation in the future.
252. The extent of the proposed expansion was provided in the evidence given by DSL at the subsequent hearing.<sup>63</sup> This expansion of the site appeared significant compared with the limited size of the existing development within the zone. As a result of the report writer's closing statement and after hearing from the Panel, DSL reduced the area for rezoning significantly.<sup>64</sup>
253. Within the DSL Supplementary Submissions of 24 April 2018 responding to questions of the Panel asked at hearing, areas marked in hatched red in their Appendix 3, identify the areas DSL seek to have amended including the Administration and Processing area. These small areas, in relation to the scale of the overall operation, are used for temporary facilities such as storage of equipment, mining of bitterns using a mobile mixer<sup>65</sup>, mixing of gypsum using mobile equipment, and the screening of gravel using mobile equipment.<sup>66</sup> In his evidence, Mr Euan McLeish, Production Manager of DSL, identified there is in fact only a modest amount of land suitable for processing. This was clear from the Panel's subsequent site visit and from Smart Map prints put in evidence, illustrating the large extent of the salt processing ponds by comparison.<sup>67</sup>

<sup>63</sup> DSL, Euan McLeish, Evidence, paragraphs 7-9.

<sup>64</sup> Section 42A Report, Reply to Evidence, page 108.

<sup>65</sup> Bittern is a solution that remains after evaporation of halite (common salt).

<sup>66</sup> DSL Memorandum, paragraphs 17-19, Appendix 3 attached, 24 April 2018.

<sup>67</sup> DSL Evan McLeish Evidence 26 March 2018, paragraph 6, 7, 12.

254. The report writer was satisfied that the areas now proposed are small in size and located in clear proximity to the existing development. She considered the expansion of the 'Salt Works Administration Area' into this location could appear to be a continuation of the existing built area. She concluded also that the development of this area within this zone would not result in adverse effects on amenity of the area.
255. Overall, the report writer's acceptance of the proposed development did not stretch to the southern end of the salt ponds (marked on Figure 11.4, attached<sup>68</sup>) which DSL identified would be permanent structures in which to house its operations in the medium term. No information at this stage was provided to suggest these structures should be 15 metres in height which would exceed the permitted height of 10 metres within the identified zoning as notified in the PMEP.

**Reply to request for further evidence**

256. In its memorandum of 24 April 2018, DSL provided two pages of an Appendix 3 showing map delineations on aerial photographs of the locations for which it seeks the Administration and Processing Area status in the PMEP. These delineations appeared to be hand drawn only. The maps provided need to be of GIS mapping standard for accuracy.<sup>69</sup> In response to Minute 34 of the Panel, Dominion Salt provided an appropriately, GIS mapped depiction of the three administration areas being requested.

**Consideration**

257. The Panel's site visit enabled an overview from within the zone on an elevated centrally located highpoint. The site visit satisfied the Panel that Areas 1 and 3 could be approved for re-zoning to meet the expansion needs described in evidence for increased administration areas. The Panel was satisfied the scale of development on those extra areas could be readily absorbed within the effects of the existing scale of development at the location.
258. However, Area 2 was regarded as not so readily being able to meld into existing levels or scale of development. Moreover, the Panel remained unsatisfied from the evidence as to what exactly would be the nature of the proposed development, its height, bulk and other effects which would need to be understood to be able to make an appropriate assessment of effects. The size of Area 2 and its proximity to Kaparu Road and hence its visibility was such that further detail would be necessary as full built development and/or use of such a very large area could not be readily absorbed within the scale of the existing development.

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<sup>68</sup> Photo: Additions sought to Lake Grassmere Salt Works Administration Workshop, Salt Refining and Processing Area marked up as 1, 2, 3.

<sup>69</sup> Panel Minute 34.

*Height issue*

259. The appropriate height limit for any buildings on Areas 1 and 3 then arises. The general height limit standard applying in the Salt Works zone is 15 metres. The location of Area 1 adjacent to existing built structures of about that height, and its relatively small size in added area satisfied the Panel that a height of 15 metres over extended administration areas would not cause significant extra adverse effects.
260. The potential addition of Area 3 as a new administration building area separate from other existing development initially caused some concern that the effects of buildings of such height could be significant in a visual sense from SH 1. However, having now seen on the site visit the way in which the hill from which the site visit overview occurred blocks most views from SH1 the Panel was more comfortable with the general height standard of 15m in the zone applying. Moreover, the Panel notes that the height of the hill, which shields most of this area, is 36 metres, which will assist in reducing any effects from what would be long-distance views of SH1 from the south or from Marfells Beach Road. The Panel decided, therefore, that the height standard applicable to the rest of the zone should apply also to Areas 1 and 3.

**Decision**

261. The PMEP is amended as follows:
- Zoning Map 187 is amended to reflect the proposed expansion for the Lake Grassmere Salt Works Administration, Workshops, Salt Refining and Processing Area Zone as illustrated as areas 1 and 3 only as shown on the Response to Minute 34.
  - The inclusion of Area 2 as shown on the Response to Minute 34 is rejected.
  - The height limit for buildings and structures within new areas 1 and 2 zoned Lake Grassmere Salt Works Administration, Workshops, Salt Refining and Processing area are subject to relevant Chapter 22 standards and no additional restrictions applied.

**Accurate Mapping of the Pipeline Corridor**

262. DSL initially indicated that Appendix 21 Volume 3 PMEP showed the accurate location and dimensions of the Lake Grassmere Salt Works Intake and Pipeline Extension Corridor Zone: see Volume 4 Maps 187-188 (the zoning maps). In the notified PMEP however, Appendix 21 shows only approximate locations and dimensions of the base width of the Pipeline Corridor at (approximately) 55 metres shorter than it should be on those maps. The datum line as shown in Appendix 21 of the PMEP reflects these provisions.

263. DSL now seek the pipeline corridor be extended 25 metres north-east, as shown in Figure 11.3, to ensure that DSL can carry out maintenance on the old intake pipeline which the company wishes to repair in the future. The old intake pipe extends seaward approximately the same distance as the current pipeline.
264. DSL advised that if the Lake Grassmere Salt Works Intake and Pipeline Extension Corridor was accurately mapped in Volume 4 Maps there would be no need for Appendix 21 of the notified plan.
265. Questions about the length of the pipeline corridor arose because the physical pipeline itself only extends 30 metres from mean high water springs (MHWS) (the old pipeline was 15 metres) whereas, the Pipeline Zone extends 1000 metres from MHWS. It was explained the November 2016 earthquake caused uplift along a sizeable area of the East Coast including Clifford Bay adjacent to Lake Grassmere. The pipeline’s intake was raised 36cm relative to sea level resulting in:
- The intake is now at a shallower depth and is affected by more silt and seaweed washed into the settling ponds requiring more frequent cleaning.
  - Reduced tidal flow into the settling ponds has reduced the pumping window into the main lake over each tide (adjusted by providing more pumps).
266. DSL as a consequence seeks to retain the notified length of the Lake Grassmere Salt Works Intake and Pipeline Extension Corridor Zone (1000 metres) to allow for contingencies such as future changes to sediment transport along the coast, while a future earthquake uplift may need the intake pipe to be extended further.
267. Originally DSL sought that the Lake Grassmere Salt Works Intake and Pipeline Extension Corridor be extended 25 metres either side of the pipeline. This is now considered unnecessary because the length and situation of the pipeline will now allow the excavation to be carried out with a boom to clean sand away unimpeded, the operational requirements of the salt works to continue, maintenance of the pipeline to be undertaken, and finally providing cuts for stormwater overflow as permitted activities within the Salt Works Zone.<sup>70</sup> The locations of all these activities are illustrated on Figure 11.3 to this decision.<sup>71</sup>

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<sup>70</sup> DSL, Counsel Supplementary Submissions.

<sup>71</sup> Appendix 1, Lake Grassmere Salt Works Zone Intake and Pipeline Corridor.



268. DSL requests changes to the dimensions. The effect of the identification of the Lake Grassmere Saltworks Intake and Pipeline Extension Corridor is to accurately demonstrate its location.

#### **Consideration**

269. The Pipeline Extension Corridor extends 1000 metres from MHWS. In terms of extending the physical pipeline from its current location at 30 metres from MHWS (see paragraph 133 above),<sup>72</sup> increased sediment transport along the coast may well change over time. Further climate change weather-related events may well be a factor in creating a build-up of sediment unable to be readily cleared away. Meanwhile, earthquakes in the area may well cause further uplift requiring further repositioning of the pipeline. The November 2016 earthquake caused uplift along a sizeable area of the east coast including in Clifford Bay adjacent to Lake Grassmere. The pipeline's intake pipe from that event was raised 36 cm, the results identified above.

270. During the hearing it became evident that the areas comprising the Lake Grassmere site could not be adequately determined on the maps at a 1:40,000. A 1:10,000 scale would allow users of the hard copy version to identify the different areas and elements that make up the site. The submitter noted that the site, if appropriately mapped, would make Appendix 21 redundant. The Panel agreed that suitable mapping would serve plan users better than unnecessarily having the double up of map and an additional appendix.

#### **Decision**

271. The PMEP is amended as follows:

- The length of the pipeline corridor is set at 1000 metres.
- Zoning Map 187 is amended to accurately map the Lake Grassmere Salt Works Zone intake and pipeline extension corridor, as shown on Appendix 1, Response to Minute 18.
- The Lake Grassmere Saltworks Zone is to be mapped at the 1:10,000 scale and the additional zoning maps are inserted at Map 88.

#### **New Salt Works Outlet Area**

272. Mr McLeish identified that the Open Space 3 Zone between the saltworks and the internal road (to which the public does not have access) and the pipeline should also be zoned as part of the Lake Grassmere Salt Works Zone. DSL further noted the current zoning prevented maintenance activity in that area.

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<sup>72</sup> Supplementary Submissions of Counsel for DSL. Topic 11 Use of the Coastal Environment, 24 April 2018, paragraphs 13-14.

273. In response to the Panel’s request at the hearing for further clarity, DSL provided Supplementary Submissions<sup>73</sup> setting out what they were seeking.
274. A number of issues arose from the zoning of the area between the Lake Grassmere Salt Works Zone (Salt Works Zone) and the Pipeline Corridor as Open Space 3 Zone.
- The two areas are separated by the Open Space 3 Zone. Therefore it is unclear that the Pipeline Corridor is part of the Salt Works Zone its inclusion only being implied by the rules relating to the Pipeline Corridor.<sup>74</sup>
  - Rule 22.1.5 allows for the construction and use of a temporary stormwater flood outlet channel as a permitted activity; if required, DSL would construct the channel with the outlet located within the southernmost section of the Pipeline Corridor. This would need to go through the area zoned Open Space 3 to which Rule 22.1.5 does not apply. Consequently the company would need a resource consent to construct the channel in this area.
  - DSL carries out regular activities such as intake repairs, unblocking the pipe and maintenance within the area zoned Open Space 3 between the Pipeline Corridor and the Salt Works Zone along which a gravel legal road runs along the coastline within Open Space 3.
275. DSL’s solution to requiring a resource consent for its activities is to create a new Salt Works Outlet Area hatched in black on the map attached (Figure 11.3).<sup>75</sup> The rules for Open Space 3 Zone would apply as well as permitted activity Rules 22.1.2, 22.1.4 and 22.1.5. These prescribe the standards applying to the limited activities which mirror those already carried out within the proposed new Salt Works Outlet Area. In addition, DSL sought a new rule of the maintenance of the intake pipelines. These were set out in the tracked changes version of Chapter 22, provided in the response to Minute 18, dated 24 May 2018.

**Consideration**

276. The report writer and the submitter were agreed on the following rule: Lake Grassmere Salt Works Zone Permitted Activities

*22.1.X Within the Salt Works Outlet Area the following are permitted activities subject to their relevant standards:*

*(a) Activities identified in Rules 22.1.2 to 22.1.5;*

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<sup>73</sup> Supplementary Submissions of Counsel for Dominion Salt Limited, dated 24 April 2018.

<sup>74</sup> Chapter 22: Lake Grassmere Salt Works Zone, page 22-23.

<sup>75</sup> Maps included, Memorandum in response to Minute 18

*(b) Activities permitted in the Open Space 3 Zone.*

277. This is based on submission point 355.011 using the wording suggested by the report writer.
278. The Panel considered the zoning change would enable the operational requirements of the salt works to continue by providing the link to the pipeline corridor. The zoning of this area will provide for the activities anticipated to occur there unimpeded, such as maintenance of the pipeline, as permitted activities.

**Decision**

279. The Open Space 3 Zone between the Salt Works Zone and the Lake Grassmere Salt Works Intake and Pipeline Extension Corridor, is to be rezoned as Lake Grassmere Saltworks Zone.

**New provision 22.1.20**

280. The solution proposed by DSL to establish a new Salt Works Outlet Area encompasses some of the area zoned both Open Space and Salt Works Zone to provide the link from the Salt Works Zone to the Pipeline Corridor and provide for the activities that are anticipated to occur there such as maintenance of the pipes. It is therefore important that this mapping is accurate, requiring the exact location and extent of the pipeline.

281. As proposed by DSL, the report writer recommends the following<sup>76</sup> is included in the PMEP:

*22.1.20 Within the Salt Works Outlet Area the following are permitted activities subject to their relevant standards:*

- a) activities identified in rules 22.1.2 to 22.1.5*
- b) activities permitted in the Open Space 3 Zone*

**Decision**

282. Create a Salt Works Outlet Area as set out in response to Minute 18 dated 24 May 2018 and add the new area to the map legend.

**Rules as amended**

283. **The WARMP** methods of implementation for the Lake Grassmere salt works operation have been carried over into the PMEP. Permitted Activity Rule 22.1.1 provides for solar production refining, handling, packaging, storage and sale of salt and associated by-products. No change is considered as these operating systems have proven to be efficient and proven management by inclusion of the wording “and the full range of process required”.

284. The report recommended that Rule 22.1.1 be amended as follows:

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<sup>76</sup> Section 42A Report, pages 174-176, Reply to Evidence, page 110.

Solar production, refining, handling, packaging, storage and sale of salt and associated by-products, and the full range of processes required.<sup>77</sup>

285. Dominion Salt sought an alternative expression for Standard 22.2.1.3 that would result in ‘notwithstanding’ being replaced with ‘any building not coming within’. The report writer agreed that an alternative expression was appropriate but instead recommended the following:

*22.2.1.3 Any building or structure to which Standard 22.2.1.1 and 22.2.1.2 does not apply must not exceed 10 metres in height ~~Notwithstanding 22.2.1.1 and 22.2.1.2, a building or structure must not exceed 10m in height.~~*

286. Another recommendation of the report writer was for the following change:

*22.3.4.1 The temporary channel must only be constructed and used when a storm event is forecast or immediately following a storm event.*

**Consideration**

287. In terms of Permitted Activity Rule 22.1.1, the Panel subsequently changed the words ‘full range’ in Rule 22.1.1 to ‘associated’ range of processes as being more appropriate as ‘full range’ is too uncertain.<sup>78</sup>
288. The Panel also agreed that the term ‘notwithstanding’ does not function effectively when considered alongside 22.2.1.1 and 22.2.1.2. However, it determined that the wording should be ‘any building or structure not covered by 22.2.1.1 and 22.2.1.2 must not exceed 10m in height’

**Decision**

289. The following rule is to be inserted:

*22.1.X Within the Salt Works Outlet Area the following are permitted activities subject to their relevant standards:*

*(a) Activities identified in Rules 22.1.2 to 22.1.5;*

*(b) Activities permitted in the Open Space 3 Zone.*

290. Standard 22.2.1.3 is amended as follows:

*22.2.1.3 ~~Notwithstanding~~ Any building or structure not covered by Standards 22.2.1.1 and 22.2.1.2, a building or structure must not exceed 10m in height.*

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<sup>77</sup>). Section 42A Report, page 175

<sup>78</sup> Section 42A Report, paragraphs 974 – 976, 981.

291. Standard 22.3.4.1 is amended as follows:

*22.3.4.1 The temporary channel must only be constructed and used when a storm event is forecast or immediately following a storm event.*

292. Rule 22.1.1 is amended as follows:

*22.1.1 Solar production, refining, handling, packaging, storage and sale of salt and associated by-products, and the associated range of processes required.*

### **Rule 22.1.3**

#### **Take and use of coastal water and the maintenance of existing seawater intake pipelines within the Lake Grassmere Salt Works Intake and Pipeline Extension Corridor shown in Appendix 21.**

293. DSL requested that permitted activity Standard 22.1.3 is revised to separate out the ‘take and use of coastal water’ from the remainder of the rule as more certainty is required as to the nature of the activities enabled in the Pipeline Corridor.

294. In her Reply to Evidence, the report writer agreed with DSL that the zoning of the area linking the Salt Works Zone to the Pipeline Corridor does not allow the company to undertake works namely the construction of an outlet channel (to accommodate flooding) as permitted within the Salt Works Zone but does not apply within the Open Space 3 Zone where the works need to occur.

#### **Decision**

295. The following amendment was proposed with which the Panel agrees:<sup>79</sup>

*22.1.3 – Take and use of coastal water from ~~and the maintenance of existing seawater intake pipelines within the Lake Grassmere Salt Works Intake and Pipeline Extension Corridor shown in Appendix 21.~~*

296. Lake Grassmere Settling Ponds and Roding - Lake Grassmere Saltworks Zone is applied to the ex-settling ponds. The area runs adjacent to the eastern end of Kaparu Road through to the Lake Grassmere Salt Works Zone intake and pipeline extension corridor. The area is shown as unzoned in the notified plan.

297. There was general concern about the lack of detail as to roads and waterbodies in and around the Salt Works Zone.

298. The redundant settling pond shown in photograph 3 in the response to Minute 18 was shown as river bed on the notified plan. DSL sought for it to be zoned Lake Grassmere Salt Works Zone.

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<sup>79</sup> Section 42A Report, Reply to Evidence, page 109-110.

**Decision**

299. The ex- settling pond area shown in photo 3 contained in response to Minute 18 is rezoned Lake Grassmere Salt Works Zone.

**Zoning of internal roads**

300. DSL states that the Council has zoned as road internal parts of the salt works site. But in DSL’s experience, these are not places that the public has access to in practical terms. The processes undertaken in this area of the site are similar to those that occur in other parts of the salt works. The submitter seeks that all of the appurtenant areas on its land be zoned for consistency.
301. The report writer identifies that within the PMEP zoning map those areas are identified as indicative river beds. She considers that within these areas the management framework for the land as Lake Grassmere Salt Works Zone still applies to this land.
302. The report writer’s recommendation is that as the submission provided no clear justification for the need for the expansion of this zone, nor a map to indicate any expansion, she was unable to assess the zoning request and that the submission from DSL is rejected.<sup>80</sup>
303. The report writer reiterated her rejection of the submission in her Reply to Evidence. The Panel agrees with her reasoning.

**Decision**

304. The request for the zoning of roads is rejected.

**Lake Grassmere – Scheduled sites**

305. The above decisions, combined with a decision on another DSL submission point in the Topic 19: Land Disturbance decision, add additional overlays to the Plan. The effect of the overlays is to allow location specific rules apply to specific activities. The same also applies in the case of the existing Intake and Pipeline Extension Corridor.
306. Having made decisions on these submission points on their merits, but in isolation to each other, the Panel has reflected on the best structural option for giving effect to its decisions. As they stood, the decisions would introduce a level of complexity to the permitted activity rules in 22.1, and their accompanying standards in 22.2 The Panel considered that this complexity would create the potential for confusion in the implementation and administration of the rules.

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<sup>80</sup> Section 42A Report, paragraph 962.

307. In the process of considering a remedy to this matter, the Panel noted the content of Appendix 16 of Volume 3. As notified, Appendix 16 contains three scheduled sites<sup>81</sup> and it operates to allow a set of specific rules apply to each of the scheduled sites. This is exactly how the Salt Works Outlet Area and Salt Works Lake Maintenance Area (see Topic 19 decision) are designed to operate with respect to DSL's operations at discrete parts of Lake Grassmere.
308. The Panel has determined that Appendix 16 should therefore be utilised to provide for the rules that apply to each of the relevant spatial areas. To achieve this end, the relevant spatial areas have to be mapped as scheduled sites in the relevant zoning maps of Volume 4. This would have the effect of removing complexity from 22.1 and 22.2 of Volume 2. Those sections would simply contain the rules that apply to the Lake Grassmere Salt Works Zone in its entirety.
309. The Panel also noted that the Intake and Pipeline Extension Corridor operates in much the same way to the two new overlays: A discrete set of rules applies to specific activities in the Corridor. For consistency, the Panel is making a consequential change to also relocate the rules that apply to the Corridor to Appendix 16.<sup>82</sup>
310. There is one further consequential change required to implement this structure and that is a minor change to the introductory wording of 21.1 to recognise that the rules in Appendix 16 may enable activities in addition to the rules of Chapter 22. A wording for doing so is set out below.

#### **Decision**

311. The Salt Works Outlet Area and the Intake and Pipeline Extension Corridor, in addition to the Salt Works Lake Maintenance Area, are to be depicted as scheduled sites on the relevant zoning maps in Volume 4.
312. The rules and standards applying to the new Salt Works Outlet Area and the existing Intake and Pipeline Extension Corridor, in addition to the new Salt Works Lake Maintenance Area, are added to Appendix 16 of Volume 3 as a new schedule, as follows:

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<sup>81</sup> Decisions on Topic 21: Zoning add two additional scheduled sites.

<sup>82</sup> The Panel has also decided to delete Appendix 21 as a result of accurately mapping the Intake and Pipeline Extension Corridor on the relevant zoning maps.

**Schedule 7 – Salt Works Outlet Area, Lake Grassmere Salt Works Intake and Pipeline Extension Corridor and Salt Works Lake Maintenance Area.**

Where not otherwise expressly provided for, or limited by, the rules in Schedule 7 of Appendix 16, the rules of the Lake Grassmere Salt Works Zone apply to all activities when undertaken by the operator of the salt works within the Salt Works Outlet Area, Lake Grassmere Salt Works Intake and Pipeline Extension Corridor and the Salt Works Lake Maintenance Area.

**Schedule 7A – Salt Works Outlet Area**

**7A.1 Permitted Activities**

Unless expressly limited elsewhere by a rule in the Marlborough Environment Plan (the Plan), the following activities shall be permitted without resource consent when undertaken by the operator of the salt works within the Salt Works Outlet Area identified in Appendix 21, and where they comply with the applicable standards in Chapter 22:

[D]

7A.1.1 Buildings, bunds, roads and other developments associated with the Salt Works activities existing at 9 June 2016.

[D]

7A.1.2 Maintenance of existing seawater intake pipelines and associated structures

[C]

7A.1.3 Discharge of stormwater from Lake Grassmere and surrounding catchments or diluted brine to the coastal marine area.

[C, D]

7A.1.4 Construction and use of a temporary stormwater flood outlet channel from Lake Grassmere to the coastal marine area, including any disturbance of the foreshore and seabed.

[R, D]

7A.1.5 Activities permitted in the Open Space 3 Zone.

**7A.2 Standards that apply to all permitted activities**

7A.2.2 When undertaking an activity in accordance with permitted activities in the Open Space 3 Zone, the relevant standards for the activity in 19.3 must be complied with.

**Schedule 7B – Lake Grassmere Salt Works Intake and Pipeline Extension Corridor**

**7B.1 Permitted Activities**

Unless expressly limited elsewhere by a rule in the Marlborough Environment Plan (the Plan), the following activities shall be permitted without resource consent when undertaken by the operator of the salt works within the Lake Grassmere Salt Works Intake and Pipeline Extension Corridor identified in Appendix 21, and where they comply with the applicable standards in Chapter 22:

[C]

7B.1.1 Take and use of coastal water.



[C]

7B.1.2 Maintenance of existing seawater intake pipelines and associated structures.

[C]

7B.1.3 Discharge of stormwater from Lake Grassmere and surrounding catchments or diluted brine to the coastal marine area.

[C]

7B.1.4 Construction and use of a temporary stormwater flood outlet channel from Lake Grassmere to the coastal marine area, including any disturbance of the foreshore and seabed.

[C]

7B.1.5 Activities permitted in the Coastal Marine Zone.

**7B.2 Standards that apply to all permitted activities**

7B.2.2 When undertaking an activity in accordance with permitted activities in the Coastal Marine Zone, the relevant standards for the activity in 16.3 must be complied with.

**Schedule 7C – Salt Works Lake Maintenance Area**

**7C.1 Permitted Activities**

Unless expressly limited elsewhere by a rule in the Marlborough Environment Plan (the Plan), the following activities shall be permitted without resource consent when undertaken by the operator of the salt works within the Salt Works Lake Maintenance Area, and where they comply with the applicable standards in Chapter 22:

[R, D]

7C.1.1 Excavation

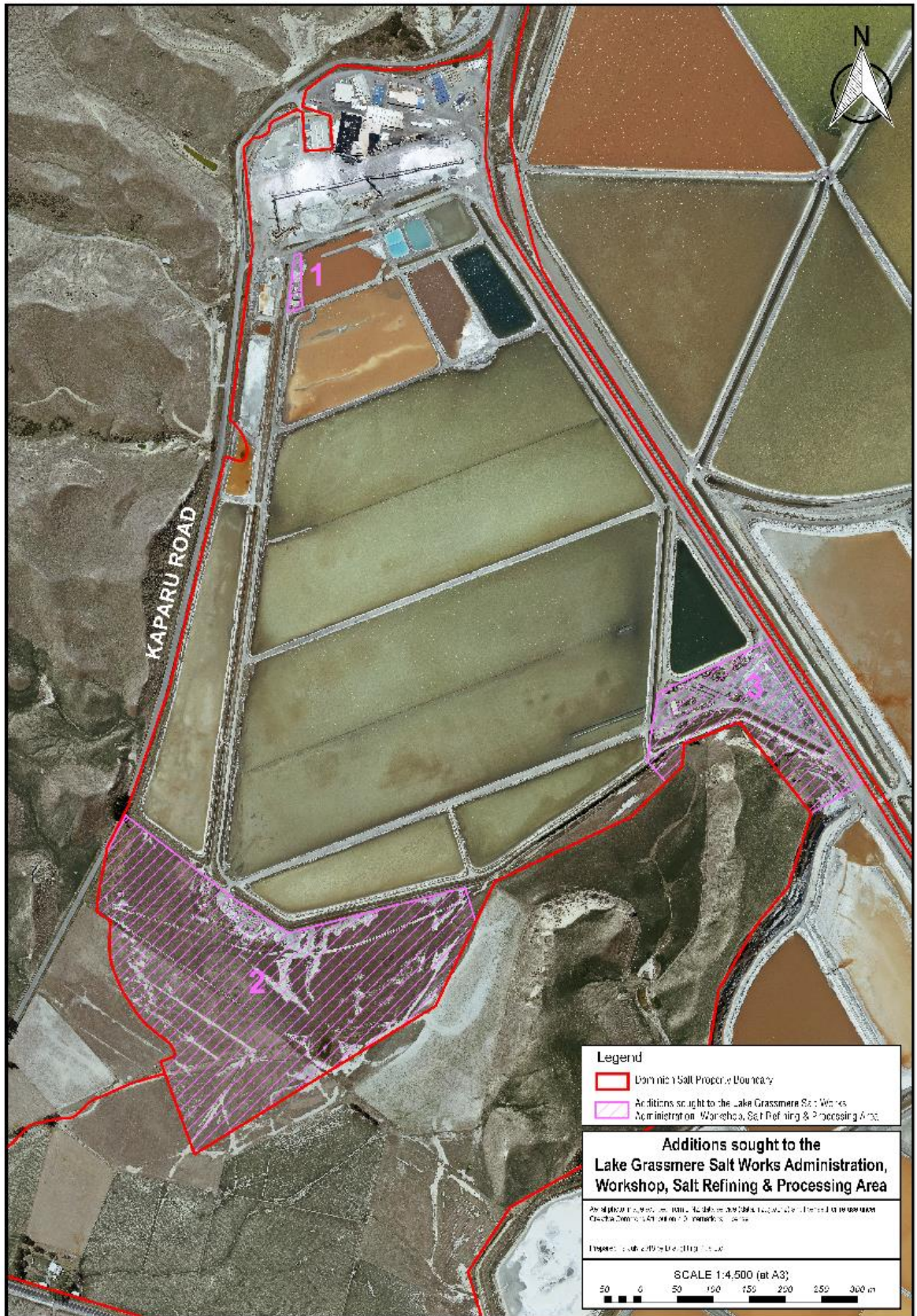
313. The introductory wording to 22.1 is amended to read:

*“Unless expressly permitted by rules in Schedule 7 of Appendix 16 or expressly limited by a rule elsewhere by a rule in the Marlborough Environment Plan...”*





Figure 11.4



**Schedule G: Address for Service of Persons to be Served**

<b>Name / Organisation</b>	<b>Contact</b>	<b>Address for Service</b>
Marlborough District Council	Kaye Mcllveney	Kaye.Mcllveney@marlborough.govt.nz