

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

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

ENVC-CHC-2020-

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

AND

IN THE MATTER of a decision on the proposed Marlborough Environment Plan

BETWEEN **KPF INVESTMENTS LIMITED** a duly incorporated company
having its registered office at PKF Goldsmith Fox, Level 1, 100
Moorhouse Avenue, Christchurch, 8011, New Zealand and
UNITED FISHERIES LIMITED a duly incorporated company
having its registered office at 50-58 Parkhouse Road,
Christchurch, New Zealand

Appellant

(Continued next page)

NOTICE OF APPEAL
Dated this 8th day of May 2020

GASCOIGNE WICKS
LAWYERS
BLLENHEIM

79 High Street
PO Box 2
BLLENHEIM 7240
Tel: 03 578 4229

Solicitor: Quentin A M Davies | Amanda L Hills
(qdavies@gwlaw.co.nz | ahills@gwlaw.co.nz) Fax: 03 578 4080

AND

MARLBOROUGH DISTRICT COUNCIL

Respondent

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

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

To: The Registrar
Environment Court
Christchurch

Name of Appellant and Decision Maker

- 1 KPF Investments Limited (“KPF”) and United Fisheries Limited (“United Fisheries”) appeal against part of the decision of the Marlborough District Council (“MDC”) on the proposed Marlborough Environment Plan (“proposed Plan”).
- 2 KPF and United Fisheries made a submission on the proposed Plan.

Trade Competition

- 3 KPF and United Fisheries are not trade competitors 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, with the tracked changes decision version of the Plan being released on 3 March 2020.

Date on which Notice of Decision was received by Appellant

- 5 KPF and United Fisheries received notice of the decision on 21 February and 3 March 2020.

The Decision

- 6 The parts of the decision that KPF and United Fisheries are appealing are:
 - (a) The extent and methodology of Outstanding Natural Landscape (ONL) mapping in Landscape Maps 1, 2 and 4 of Volume Four of the proposed Plan.
 - (b) The extent and methodology of outstanding Coastal Natural Character (NC) mapping in Natural Character Map Outstanding Map 3, and of Very High and High NC mapping in Natural Character Rating Maps 1, 2, 3 and 4 of Volume Four of the proposed Plan.
 - (c) The methodology underpinning, and the content of, the Landscape Schedule of Values at Appendix 1 of Volume Three of the proposed Plan,

in particular the lack of recognition of marine farms as part of the existing environment of the Marlborough Sounds.

- (d) The methodology underpinning, and the content of, the Coastal Natural Character Schedule of Values at Appendix 2 of Volume Three of the proposed Plan, in particular the lack of recognition of marine farms as part of the existing environment of the Marlborough Sounds.
- (e) Appendix 4 of Volume Three of the proposed Plan.

Reasons for the Appeal

- 7 While KPF and United Fisheries are generally supportive of the proposed Plan provisions, KPF and United Fisheries consider that some change is required to ensure that the proposed Plan:
 - (a) Promotes the purpose of the Act, being the sustainable management of resources (section 5);
 - (b) Is not contrary to Part 2 and other provisions of the Act;
 - (c) Is not contrary to the New Zealand Coastal Policy Statement 2010;
 - (d) Is not contrary to other relevant planning documents; and
 - (e) Will meet the reasonably foreseeable needs of future generations.
- 8 In particular, and without limiting the generality of the above paragraph:
 - (a) The evaluation must be at the appropriate geographic scale treating landscape, feature or natural character areas a whole.
 - (b) Outstanding Natural Feature (“ONF”) and ONL boundaries and the corresponding boundaries for natural character should be legible and coherent to the community.
 - (c) There should be a correlation between the ONL and ONF mapping in Volume 4 and the landscapes identified at Map 2, Appendix 1 of Volume 3 of the proposed Plan.
 - (d) An assessment of biophysical attributes is the appropriate starting point for assessment.
 - (e) The scheduling of landscapes, features and natural character needs to go beyond broad generic descriptions of values if a schedule is to serve its intended purpose in assisting consent application processes. The proposed Plan needs to provide as much certainty as possible on what is

being protected and why. The proposed Plan fails to achieve Policy 4.3.3.

- (f) The policies and other methods should identify parameters within which change could occur, and where change is anticipated specify the extent to which change may occur in the schedules.

Relief Sought

- 9 The Appellants seek the following relief:
 - (a) Amendments to the relevant rules and map as set out in **Schedule A** to this notice; and
 - (b) Any necessary consequential amendments; or
 - (c) Other equivalent relief.
- 10 The Appellants agree to participate in mediation or other alternative dispute resolution of the proceeding.

Attached Documents

- 11 The following documents are **attached** to this notice:
 - (a) **Schedule A** as referred to above;
 - (b) A copy of the submissions and further submissions of KPF and United Fisheries (**Schedule B**);
 - (c) A copy of the relevant parts of the decision (**Schedule C**); and
 - (d) A copy of persons to be served with this notice (**Schedule D**).
- 12 A copy of this notice will be lodged electronically with the Environment Court and the Marlborough District Council in accordance with the updated and amended directions in the Court's Minute of 15 April 2020. The Appellants note that the requirements to serve a copy of this notice on other parties and provide a list of names to the Registrar have been waived.



Amanda L Hills and Quentin A M Davies
Solicitors for the Appellants

Address for service of the Appellants

Gascoigne Wicks, 79 High Street, Blenheim 7201.

Telephone: 021 045 8608 or 03 578 4229

E-mail: ahills@gwlaw.co.nz | edeason@gwlaw.co.nz | shammerson@gwlaw.co.nz

Contact persons: A L Hills, Solicitor; E Deason, Solicitor; Sharyn Hammerson, Secretary

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,—

- (a) 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 (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- (b) 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

The copy of this notice served on you does not attach a copy of the appellant's submission and (or or) the decision (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.

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).

SCHEDULE A – Relief Sought

- Base text is the Decisions Version, with Hearing Panel’s recommendations accepted to remove tracking.
- Where the Appellant seeks additional text, this is shown in underline.
- Where the Appellant seeks to delete text, this is shown in ~~strikethrough~~.
- Relief sought is indicative. Relief sought includes alternative wording or approach which achieves similar goals.

Decisions Version	Relevant part of provision	Relief sought
Landscape Map 1, Volume 4	Mapping	Amend the ONL mapping of Port Ligar and French Pass in accordance with submissions relating to methodology; and The MEP should expressly recognise that marine farms do not adversely impact the values that lead to that classification.
Landscape Map 2, Volume 4	Mapping	Amend the ONL mapping of Orchard Bay in accordance with submissions relating to methodology; and The MEP should expressly recognise that marine farms do not adversely impact the values that lead to that classification.
Landscape Map 4, Volume 4	Mapping	Amend the ONL mapping of Horseshoe Bay, Kauauroa Bay and Fairy Bay in accordance with submissions relating to methodology; and The MEP should expressly recognise that marine farms do not adversely impact the values that lead to that classification.
Coastal Natural Character Rating Map 1, Volume 4	Mapping	Amend the mapping of High natural character of outer Orchard Bay in accordance with submissions relating to methodology; and The MEP should expressly recognise that marine farms do not adversely impact the values that lead to that classification.
Coastal Natural Character Rating Map 2, Volume 4	Mapping	Amend the mapping of High natural character of Orchard Bay and Anakoha Bay in accordance with submissions relating to methodology; and The MEP should expressly recognise that marine farms do not adversely impact the values that lead to that classification.
Coastal Natural Character Map 3, Volume 4	Mapping	Amend the mapping of High and Very High natural character of Horseshoe Bay, Kauauroa Bay, Beatrix Bay, Kaiuma Bay, South East Bay, Hopai Bay to Grant Point and Fairy Bay in accordance with submissions relating to methodology; and The MEP should expressly recognise that marine farms do not adversely impact the values that lead to that classification.

Decisions Version	Relevant part of provision	Relief sought
Coastal Natural Character Rating Map 4, Volume 4	Mapping	<p>Amend the mapping of High natural character of Anakoha Bay, Beatrix Bay, Hopai Bay to Grant Point and Kauauroa Bay in accordance with submissions relating to methodology; and</p> <p>The MEP should expressly recognise that marine farms do not adversely impact the values that lead to that classification.</p>
Natural Character Map Outstanding Map 3, Volume 4	Mapping	<p>Amend the mapping of Outstanding natural character Fairy Bay in accordance with submissions relating to methodology; and</p> <p>The MEP should expressly recognise that marine farms do not adversely impact the values that lead to that classification.</p>
Appendix 1, Volume 3	Methodology and content of appendix/values tables	<p>Amend to recognise that marine farms are part of the existing environment of the Marlborough Sounds. In addition to broad appeal relating to methodology, for each area where there is an existing marine farm, include an express statement to the following effect (following the approach in the Auckland Unitary Plan at Chapter L, Schedule 7):</p> <p><u><i>“Some bays contain existing marine farms, but this does not compromise [relevant area’s name] current natural values.”</i></u></p>
Appendix 2, Volume 3	Methodology and content of appendix/values tables	<p>Amend to recognise that marine farms are part of the existing environment of the Marlborough Sounds. In addition to broad appeal relating to methodology, for each area where there is an existing marine farm, include an express statement to the following effect (following the approach in the Auckland Unitary Plan at Chapter L, Schedule 8):</p> <p><u><i>“Although marine farms occupy part of the [area], they do not compromise the overall ‘naturalness’ of the coastal environment.”</i></u></p>
Appendix 4, Volume 3	Text of appendix	Delete appendix in its entirety.

Schedule B: Submissions of KPF and United Fisheries

**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: KPF INVESTMENTS LIMITED and UNITED FISHERIES LIMITED

KPF Investments Limited (KPF) and United Fisheries Limited (UFL) are family owned seafood companies, which are both based out of Christchurch. KPF currently owns 30 marine farm resource consents in the Marlborough Sounds, which have been developed and operated by UFL.

UFL also have a processing factory in Christchurch, which employs 45 people in full-time equivalent positions (FTEs) in the mussel section of the plant. Both fish and mussels are processed at this factory.

UFL are active participants of the Marine Farming Association's Environmental Programme. They support the beach clean-up programme and follow the various industry codes of practice. KPF (as resource consent owner) fully supports these initiatives.

UFL directly employs four people in FTE positions, and three casual employees in relation to work on marine farms. The company employees are based in Havelock and Blenheim. In addition to this, UFL use local contractors for specific parts of their operations such as harvesting, anchor installations and engineering support.

UFL's onshore marine farm facilities are based in Havelock. The land is leased from Port Marlborough Limited. A single farm servicing vessel operates out of Havelock, with berth and wharf facilities leased off Port Marlborough.

1. This is a submission on the following proposed plan (the **proposal**):
 - a) Proposed Marlborough Environment Plan.
2. KPF Investments Limited and United Fisheries Limited 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
Those set out in the	Support the MFA submission in	As set out in the MFA

The specific provisions of the proposal that our submission relates to are	Our submission is	We seek the following decision from the local authority
Marine Farming Association Incorporated (MFA) submission	its entirety.	submission.
Specific points set out in the MFA submission.	<p>In particular KPF Investments Limited and United Fisheries Limited support the following submissions made by the MFA:</p> <ul style="list-style-type: none"> • Add new guiding principle to promote economic development (Chp 1); • Add new Issue 4D – Recognise that limiting development has a trade-off; • Add new Objective 4.3A – Qualities and values of the Sounds (recognise cultural and social use); • Add new Policy 4.1.1A – Existing Use; • Add new Policy 4.1.2A – Experimentation and Innovation; • Add new Policy 4.1.2B – Net Improvement; • Add new Policies 6.2.1 – 6.2.3 (avoidance policies – natural character); • Add new Policies 7.2.5 – 7.2.5B (avoidance policies – landscape); • Add new Policies 8.3.1 – 8.3.2C (avoidance policies – indigenous biodiversity); • Add new Policy 8.3.8 – Biodiversity offsets; • Add new Adaptive Management policy to chapter 8; • Amend Policy 13.2.3(b) – Term of consent; • Amend Monitoring Equipment Standards 	As set out in the MFA 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
	<p>13.3.10, 14.3.5.1, 15.3.9, and 16.3.9;</p> <ul style="list-style-type: none"> • Support the proposal to create a marine farm protection overlay within 1000m of the boundary of any marine farm; and • Support the submissions in respect of the Appendices (Vol 3) and Maps (Vol 4). 	
Vol 2, Chapter 25, Definitions	It is unclear which parts of Chapter 8 apply to the mapped dolphin areas, which are named as "Ecologically Significant Sites" in Map 18, but are not defined as "Ecologically Significant Sites" in the definitions chapter in volume 2.	In the absence of clarity, delete Marine Mammal (Dolphin) Map 18.
Vol 3, Appendix 1	Social and cultural uses, including existing marine farms, are part of the qualities and values of the Marlborough Sounds. This should be expressly recognised in the landscape values assessment at Appendix 1.	<p>For each area where there is an existing marine farm, include an express statement to the following effect (following the approach in the proposed Auckland Unitary Plan at Chapter L, Schedule 7):</p> <p><i>“Some bays contain existing marine farms, but this does not compromise [relevant area’s name] current natural values.”</i></p>
Vol 3, Appendix 2	Social and cultural uses, including existing marine farms, are part of the qualities and values of the Marlborough Sounds. This should be expressly recognised in the natural character values assessment at Appendix 2.	<p>For each area where there is an existing marine farm, include an express statement to the following effect (following the approach in the proposed Auckland Unitary Plan at Chapter L, Schedule 8):</p> <p><i>“Although marine farms occupy part of the [area], they do not compromise the overall ‘naturalness’ of the coastal environment.”</i></p>

The specific provisions of the proposal that our submission relates to are	Our submission is	We seek the following decision from the local authority
<p>Vol 4, Overlays, Coastal Natural Character Map 1</p> <p>AND</p> <p>Vol 3, Appendix 2</p>	<p>Support the absence of a natural character overlay in:</p> <ul style="list-style-type: none"> • Inner Admiralty Bay; and • Port Ligar. <p>Horseshoe Bay is not included in Coastal Natural Character Map 1, as per the Natural Character index.</p> <p>Based on the overlay maps on the Marlborough District Council website:</p> <ul style="list-style-type: none"> • Oppose the high natural character overlay in Horseshoe Bay; and • Oppose the high natural character rating in Beatrix Bay. 	<p>Retain the proposed mapping in respect of:</p> <ul style="list-style-type: none"> • Inner Admiralty Bay; and • Port Ligar; <p>AND</p> <p>Remove the natural character overlay from Horseshoe Bay and Beatrix Bay;</p> <p>OR</p> <p>The MEP should expressly recognise that marine farms do not adversely impact the values that lead to that classification, by amending the values at Vol 3, Appendix 2, as per separate submission.</p>
<p>Vol 4, Overlays, Coastal Natural Character Map 2</p> <p>AND</p> <p>Vol 3, Appendix 2</p>	<p>Oppose the high natural character overlay in Orchard Bay and Beatrix Bay;</p> <p>AND</p> <p>Support the absence of a natural character overlay in Anakoha Bay, but oppose the extent of the high natural character overlay on the northeastern headland.</p>	<p>Retain the natural character mapping as proposed in respect of Anakoha Bay, save for reducing the extent of the high natural character overlay on the northeastern headland;</p> <p>AND</p> <p>Remove the natural character overlay from Orchard Bay and Beatrix Bay;</p> <p>OR</p> <p>The MEP should expressly recognise that marine farms do not adversely impact the values that lead to that classification, by amending the values at Vol 3, Appendix 2, as per separate submission.</p>
<p>Vol 4, Overlays, Coastal Natural Character Map</p>	<p>Kauauroa Bay is not included in Coastal Natural Character Map</p>	<p>Retain the natural character mapping as proposed for:</p>

The specific provisions of the proposal that our submission relates to are	Our submission is	We seek the following decision from the local authority
<p>3 AND Vol 3, Appendix 2</p>	<p>3, as per the Natural Character Index.</p> <p>Oppose the extent of:</p> <ul style="list-style-type: none"> • The high natural character overlay in Kauauroa Bay (based on the overlay maps on the Marlborough District Council website); • The very high and outstanding natural character overlay in Fairy Bay; • The high natural character overlay in South East Bay; • The high natural character overlay on the point between Hopai Bay and Grant Bay; and • The high natural character overlay in Kaiuma Bay. <p>Support the absence of a natural character overlay at:</p> <ul style="list-style-type: none"> • Rams Head, Tawhitinui Reach, Middle Pelorus Sound; and • The eastern side of Crail Bay. 	<ul style="list-style-type: none"> • Rams Head, Tawhitinui Reach, Middle Pelorus Sound; and • The eastern side of Crail Bay. <p>AND</p> <p>Amend the overlay mapping by removing:</p> <ul style="list-style-type: none"> • The high natural character overlay in Kauauroa Bay; • The very high and outstanding natural character overlay in Fairy Bay; • The high natural character overlay in South East Bay; • The high natural character overlay on the point between Hopai Bay and Grant Bay; and • The high natural character overlay in Kaiuma Bay. <p>OR</p> <p>The MEP should expressly recognise that marine farms do not adversely impact the values that lead to that classification, by amending the values at Vol 3, Appendix 2, as per separate submission.</p>
<p>Vol 4, Overlays, Coastal Natural Character Map 4</p>	<p>Support the absence of a natural character overlay in Waitaria Bay and Fish Bay.</p>	<p>Retain the natural character mapping as proposed in Waitaria Bay and Fish Bay.</p>
<p>Vol 4, Overlays, Landscape Map 1 AND Vol 3, Appendix 1</p>	<p>Support the absence of an outstanding natural landscape (ONL) overlay in inner Admiralty Bay;</p> <p>AND</p> <p>Oppose the extent of the ONL</p>	<p>Retain the ONL mapping as proposed for inner Admiralty Bay;</p> <p>AND</p> <p>Remove the ONL overlay from:</p>

The specific provisions of the proposal that our submission relates to are	Our submission is	We seek the following decision from the local authority
	overlay: <ul style="list-style-type: none"> • At the southeastern entrance to French Pass; and • In Port Ligar. 	<ul style="list-style-type: none"> • The southeastern entrance to French Pass; and • Port Ligar. OR The MEP should expressly recognise that marine farms do not adversely impact the values that lead to that classification, by amending the values at Vol 3, Appendix 1, as per separate submission.
Vol 4, Overlays, Landscape Map 2 AND Vol 3, Appendix 1	Oppose the ONL overlay: <ul style="list-style-type: none"> • In Orchard Bay; and • At the northeastern headland of Anakoha Bay. 	Remove the ONL overlay from: <ul style="list-style-type: none"> • Orchard Bay; and • The northeastern headland of Anakoha Bay. OR The MEP should expressly recognise that marine farms do not adversely impact the values that lead to that classification, by amending the values at Vol 3, Appendix 1, as per separate submission.
Vol 4, Overlays, Landscape Map 4 AND Vol 3, Appendix 1	Support the absence of an ONL overlay: <ul style="list-style-type: none"> • In Beatrix Bay; • At Rams Head, Tawhitinui Reach, Middle Pelorus Sound; • In South East Bay; and • In Crail Bay. AND Oppose the extent of the ONL overlay: <ul style="list-style-type: none"> • In Horseshoe Bay; • In Kauauroa Bay; • In Grant Bay; • In Fairy Bay; and 	Retain the ONL mapping as proposed: <ul style="list-style-type: none"> • In Beatrix Bay; • At Rams Head, Tawhitinui Reach, Middle Pelorus Sound; • In South East Bay; and • In Crail Bay; AND Remove ONL overlay from: <ul style="list-style-type: none"> • Horseshoe Bay; • Kauauroa Bay; • Grant Bay; • Fairy Bay; and

The specific provisions of the proposal that our submission relates to are	Our submission is	We seek the following decision from the local authority
	<ul style="list-style-type: none"> In Kaiuma Bay. 	<ul style="list-style-type: none"> Kaiuma Bay; <p>OR</p> <p>The MEP should expressly recognise that marine farms do not adversely impact the values that lead to that classification, by amending the values at Vol 3, Appendix 1, as per separate submission.</p>
Vol 4, Overlays, Landscape Map 5	<p>Support the absence of an ONL overlay in Beatrix Bay, Waitaria Bay and Fish Bay;</p> <p>AND</p> <p>Oppose the extent of the ONL overlay at the northeastern headland of Anakoha Bay (as above).</p>	<p>Retain the ONL mapping as proposed in Beatrix Bay, Waitaria Bay and Fish Bay;</p> <p>AND</p> <p>Reduce the extent of the ONL overlay at the northeastern headland of Anakoha Bay (as above).</p>
Vol 4, Overlays, Ecologically Significant Marine Sites, Map 5	<p>It is unclear from the mapping whether site 3.12 in Beatrix Bay is a regionally or nationally significant site.</p> <p>Support the mapping of sensitive area 3.12, but oppose the approach implemented in respect of this area in the MEP provisions.</p> <p>The effects of mussel farming on the benthos are well understood. They are localised and extend up to a maximum of 30m from the edge of farm structures. A strict avoidance approach is not justified.</p>	<p>Changes to Vol 1, Chapter 8 provisions and the Significance Criteria in Vol 3, Appendix 3, as per the MFA submission;</p> <p>OR</p> <p>The MEP should expressly recognise that existing marine farms do not adversely affect Piripaua Reef.</p>
Vol 4, Overlays, Ecologically Significant Marine Sites, Map 9	<p>Support the mapping of:</p> <ul style="list-style-type: none"> Significant site 3.15 in Grant Bay; and Significant site 3.16 in Crail Bay; 	<p>Changes to Vol 1, Chapter 8 provisions and the Significance Criteria in Vol 3, Appendix 3, as per the MFA submission;</p> <p>OR</p>

The specific provisions of the proposal that our submission relates to are	Our submission is	We seek the following decision from the local authority
	But oppose the approach implemented in the MEP in respect of these sites.	<p>The MEP should expressly recognise that existing marine farms do not adversely affect:</p> <ul style="list-style-type: none"> • The reef extending from the headland in Grant Bay, or Blue maomao (site 3.15); • The horse mussel beds in Crail Bay (site 3.16).
Vol 4, Overlays, Marine Mammal (Dolphin), Map 18	<p>The Marine Mammal (Dolphin) map is based on the Davidson 2011 Significant Sites report. The authors of that report were asked to identify regionally, rather than nationally significant sites. The 2011 report does not mirror the approach taken in Policy 11 of the NZCPS.</p> <p>Arguably area 2.17 (Admiralty Bay) is significant habitat for Dusky dolphins (as opposed to nationally significant habitat in terms of Policy 11(a) of the NZCPS. For example, the <i>Admiralty Bay Consortium</i> Environment Court decision noted that the site was significant in terms of s 6(c) of the Act, rather than under NZCPS Policy 11(a)). A strict avoidance approach is not, therefore, justified in respect of this site.</p>	The MEP should be amended, so that a strict avoidance approach is not adopted in respect of the mapped area in Admiralty Bay, consistent with the proposed changes to the policies at Chapter 8, as set out in the MFA submission.

Where changes are proposed, further consequential amendments may be required. Alternative relief securing the same outcomes could be granted.

3. KPF Investments Limited and United Fisheries Limited wish to be heard in support of their submission.

4. If others make a similar submission, KPF Investments Limited and United Fisheries Limited will consider presenting a joint case with them at a hearing.



.....

QAM Davies and A L Hills

Solicitors for Submitter

Date: 31 August 2016

Address for service of Submitter:

Gascoigne Wicks

79 High Street, Blenheim 7201

PO Box 2

BLENHEIM 7240

Telephone: 03 578 4229

Fax: 03 578 4080

Contact person/s: Quentin Alexander Davies and Amanda Leigh Hills

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.

Form 6

Further submission in support of, or in opposition to, submissions on the publicly notified proposed Marlborough Environment Plan

Clause 8 of Schedule 1, Resource Management Act 1991

To: The Marlborough District Council

Name of person making further submission: KPF INVESTMENTS LIMITED AND UNITED FISHERIES LIMITED

This is a further submission in response to submissions on the proposed Marlborough Environment Plan (being a combined Regional Policy Statement, Regional Plan and District Plan).

We have an interest in the proposal that is greater than the interest of the general public, because we own marine farms in an area directly relevant to the submissions outlined below. There will be consequences not only for us, but also for the people who service our farms and for United Fisheries Limited's processing factory in Christchurch.

We set out in the **attached** schedule each of the submission points we support or oppose (or in some cases a combination of the two). In addition to the reasons listed for supporting or opposing a provision (as the case may be):

- a. We support the identified submissions, because what is proposed is in accordance with:
 - i. The Resource management Act 1991;
 - ii. A s 32 analysis; and
 - iii. Other relevant plan provisions and policy statements.
- b. We oppose the identified submissions, because what is proposed is not in accordance with:
 - i. The Resource Management Act 1991;
 - ii. A section 32 analysis; and
 - iii. Other relevant plan provisions and policy statements.

In addition, we **attach** three maps as part of our further submission. These maps depict:

- a. The Outstanding Natural Landscapes or Features in the overlay maps in Volume 4 of the proposed Plan, along with the extensions to that overlay as proposed by various submitters;
- b. The Outstanding Natural Character overlay in the maps in Volume 4 of the proposed Plan, along with the extensions to the areas mapped as outstanding, very high, high or moderate to high natural character as proposed by various submitters; and
- c. The Ecologically Significant Sites overlay in the maps in Volume 4 of the proposed Plan, along with the extensions to those areas as proposed by various submitters.

These maps are based on our best interpretation of the written descriptions of proposed extensions, as set out in various submissions. Maps identifying specific proposed demarcations were not provided by submitters. Our further submissions in relation to these points are set out in detail in the **attached** schedule.

We support the detailed further submissions of The Marine Farming Association Incorporated and Aquaculture New Zealand Limited in their entirety.

We wish to be heard in support of our further submission.

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



Quentin A M Davies / Amanda L Hills

For and on behalf of:
KPF Investments Limited/United Fisheries Limited

23 June 2017

Address for Service: Gascoigne Wicks, PO Box 2, Blenheim 7240, 79 High Street, Blenheim 7201.
Telephone: (03) 578-4229
Fax: (03) 578-4080
E-mail: qdavies@gwlaw.co.nz / ahills@gwlaw.co.nz
Contact person: Quentin Davies / Amanda L Hills

Note to person making further submission

A copy of your further submission must be served on the original submitter within 5 working days after it is served on local authority.

If you are making a submission to the Environment Protection Authority, you should use Form 16C.

SCHEDULE

Further Sub No.	Further Submission
1	<p>We oppose the submissions of:</p> <p>Friends of Nelson Haven and Tasman Bay Incorporated, PO Box 98, Rai Valley 7145 (716); and Judy and John Hellstrom, Private Bag 391, Picton 7240 (688).</p> <p>The particular parts of the submissions we oppose are:</p> <p>Submission points 202, and 205 - 209 of Friends of Nelson Haven and Tasman Bay Incorporated, and point 44 of Judy and John Hellstrom, which seek to extend the outstanding natural landscape and features overlay in Volume 4 of the proposed Plan to include:</p> <ol style="list-style-type: none"> a. The Greater Admiralty Bay area, including the seascape; b. The seascape in Port Ligar, outer Pelorus Sound; c. The landscape and seascape in Anakoha Bay; d. The waters of Horseshoe Bay, Pelorus Sound; and e. The waters of Kauauroa Bay, Pelorus Sound. <p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 1. The proposed increase in the extent of the overlay is not justified. <p>We seek that the whole of points 202, and 205 - 209 of Friends of Nelson Haven's submission and point 44 of the Hellstroms' submission be disallowed.</p>
2	<p>We oppose the submission of:</p> <p>Kroon, Hanneke and Jansen, Joop Private Bag 65047, Havelock 7150 (808)</p> <p>The particular part of the submission we oppose is:</p> <p>Submission point 5, which seeks to enlarge the area covered by the outstanding natural landscape or features overlay in respect of Grant Bay and part of Crail Bay, Central Pelorus.</p> <p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 1. The increase in the extent of the mapped area is not justified. <p>We seek that the whole of submission point 5 be disallowed.</p>
3	<p>We oppose the submission of:</p> <p>Friends of Nelson Haven and Tasman Bay Incorporated, PO Box 98, Rai Valley 7145 (716).</p> <p>The particular part of the submission we oppose is:</p> <p>Submission point 205, which seeks an extension of the outstanding natural landscape and feature overlay in Volume 4 of the proposed Plan to include at</p>

	<p>least 750m of the seascape from mean high water mark. In particular, we oppose any extension to the ONL overlay in the seascape of Orchard Bay, outer Pelorus Sound.</p> <p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 1. The proposed increase in the extent of the overlay is not justified. <p>We seek that the whole of submission point 205 be disallowed.</p>
4	<p>We oppose the submission of Judy and John Hellstrom, Private Bag 391, Picton 7250 (688).</p> <p>The particular part of the submission we oppose is submission point 44, which seeks that the D'Urville Island-Northern Cook Strait be described in its entirety as an outstanding natural landscape (seascape) including the long views from east-west from the ONL's of D'Urville Island, the Rangitoto Islands to the Chetwoods and the Capes.</p> <p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 2. There is nothing in that area in landscape (seascape) terms which justifies the designation of the area as an ONL. <p>We seek all of submission point 44 be disallowed.</p>
5	<p>We oppose the submission of:</p> <p>Friends of Nelson Haven and Tasman Bay Incorporated, PO Box 98, Rai Valley 7145 (716)</p> <p>The particular parts of the submission we oppose are:</p> <p>Points 202 to 204, which seek to extend the extent of the outstanding natural character overlay in Volume 4 of the proposed Plan. In particular, we oppose the extension of the overlay to include Rams Head (including the seascape) in Tawhitinui Reach, and the seascape around the eastern headland at Port Ligar being mapped as outstanding natural character.</p> <p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 1. The increase in the extent of the overlay is not justified. <p>We seek that the whole of submission points 202 to 204 be disallowed.</p>
6	<p>We oppose the submission of:</p> <p>Friends of Nelson Haven and Tasman Bay Incorporated, PO Box 98, Rai Valley 7145 (716).</p> <p>The particular part of the submission we oppose is:</p> <p>Submission point 194 which suggests that there should not be a general permitted noise standard, as in Policy 16.2.3, and that noise is undesirable around bird colonies, dolphins and feeding areas.</p>

	<p>The reasons for our opposition are:</p> <ol style="list-style-type: none"> 1. It is unclear what is proposed in the alternative. 2. There are more practical and effective ways to manage the effects of noise from activities on wildlife. <p>We seek that the whole of submission point 194 be disallowed.</p>
7	<p>We oppose the submission of:</p> <p>Friends of Nelson Haven and Tasman Bay Incorporated, PO Box 98, Rai Valley 7145 (716)</p> <p>The particular parts of the submission we oppose are:</p> <p>Submission points 197 and 198 which seek a rule to apply to map 17 and map 18 (whales and dolphins) by amending the legends on those maps to refer to a significant marine site.</p> <p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 1. That no rules apply to map 17 or map 18. Rather, the maps should make clear that the rules do not apply to those locations. <p>We seek that the whole of submission points 197 and 198 be disallowed.</p>
8	<p>We oppose the submission of:</p> <p>The Friends of Nelson Haven and Tasman Bay Incorporated, P O Box 98, Rai Valley 7145 (716).</p> <p>The particular part of the submission we oppose is:</p> <p>Point 200, which suggests that the definition of “Ecologically significant marine sites” includes maps 17 and 18. In particular, we oppose the inclusion of Map 18 (dolphins) in this definition.</p> <p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 1. The Marine Mammal (Dolphin) map is based on the Davidson 2011 Significant Sites report. The authors of that report were asked to identify regionally, rather than nationally significant sites. The 2011 report does not mirror the approach taken in Policy 11 of the NZCPS. 2. Arguably area 2.17 (Admiralty Bay) is significant habitat for Dusky dolphins (as opposed to nationally significant habitat in terms of Policy 11(a) of the NZCPS. For example, the <i>Admiralty Bay Consortium</i> Environment Court decision noted that the site was significant in terms of s 6(c), rather than under NZCPS Policy 11(a)). An avoid policy is not, therefore, justified in respect of these sites, or at least not an area including the side bays. <p>We seek submission point 200 be disallowed.</p>

9	<p>We oppose the submission of:</p> <p>The Friends of Nelson Haven and Tasman Bay Incorporated, PO Box 98, Rai Valley 7145 (716).</p> <p>The particular part of the submission we oppose is:</p> <p>Submission point 93 in relation to Issue 8A, page 8-3: Marine Environments. If the submission can be interpreted as seeking to include “feeding areas of seabirds including the threatened king shag in the Sounds... [as] ecologically significant marine sites” (which we deny) then we oppose that part of the submission.</p> <p>The reasons for our opposition are:</p> <ol style="list-style-type: none"> 1. The submitter’s own publications suggest that the conservation management priorities for the king shag are: <ol style="list-style-type: none"> a. Protecting breeding grounds and ensuring that boats do not approach those colonies closer than 100 metres during the breeding season; b. Minimising seabird bycatch; c. Introducing pest quarantine measures to protect king shag breeding colonies; and d. Establishing king shags at new colony sites. 2. The proposed area has not been assessed through the protocol used to identify the ecologically significant marine sites in Marlborough. 3. Feeding areas are diffuse. The present state of knowledge does not lend itself to use of broad areas as a decision-making tool. <p>If submission point 93 has been validly made, we seek that it be disallowed.</p>
10	<p>We oppose the submission of:</p> <p>The Friends of Nelson Haven and Tasman Bay Incorporated, P O Box 98, Rai Valley 7145 (716).</p> <p>The particular part of the submission we oppose is:</p> <p>Point 212, where they seek to insert into the biodiversity criteria for significance at Appendix 3, Volume 3, “the site is an important feeding area for indigenous species.”</p> <p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 1. Such an addition to the criteria changes the focus from discreet benthic communities of importance to broad areas in which effects do not need to be as tightly constrained. <p>We seek that the whole of submission point 212 be disallowed.</p>

11	<p>We oppose the submission of:</p> <p>The Royal Forest and Bird Protection Society of New Zealand Incorporated, PO Box 266, Nelson 6140 (715).</p> <p>The particular part of the submission we oppose is:</p> <p>Submission point 96, which seeks to amend policy 8.1.1 to refer to the ecological significance criteria in Appendix 3 and then amend Appendix 3 to recognise important bird feeding areas as a criteria for determining ecological significance.</p> <p>The reasons for this opposition are:</p> <ol style="list-style-type: none"> 1. Set out in the Marine Farming Association Incorporated's original submission on policy 8.1.1. 2. In addition, the amendment to Appendix 3 is not warranted. The significance criteria has been used to identify discreet areas which warrant a high level of protection. A different form of protection may be warranted for broader areas. <p>We seek that the whole of submission point 96 be disallowed.</p>
12	<p>We oppose the submission of:</p> <p>The Royal Forest & Bird Protection Society of New Zealand Incorporated, PO Box 2516, Christchurch 8140 (715).</p> <p>The particular part of the submission we oppose is:</p> <p>Paragraph 32 of the submission (which may not have been summarised), which seeks to identify in the Plan important bird areas contained in Forest & Bird (2014). <i>New Zealand Seabirds: Important Bird Areas and Conservation</i>. The Royal Forest & Bird Protection Society of New Zealand, Wellington, New Zealand. 72 pp. and Forest & Bird (2015). <i>New Zealand Seabirds: Sites on Land, Coastal Sites and Islands</i>. The Royal Forest & Bird Protection Society of New Zealand, Wellington, New Zealand.</p> <p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 1. The areas identified in the 2014 publication are very large. They are not suitable for inclusion in a regulatory regime designed to protect discrete areas of high value. 2. The sites and areas have not been through the <i>Ecologically significant marine sites in Marlborough: recommended protocols for survey and status monitoring</i> (2014). 3. Should the Tawhitinui Bay important bird area be included, the plan should note that the marine farms in the bay were present before the colony was established, and consequently the marine farms and associated activity does not affect the colony. <p>We seek that the submissions identified above be disallowed. In the alternative we seek the addition to the plan identified above.</p>

13	<p>We oppose the submission of:</p> <p>Port Underwood Association, PO Box 59, Blenheim 7240 (1042).</p> <p>The particular part of the submission we oppose is:</p> <p>Point 2, where they submit that policy 4.12 should be altered so that consents for more than 20 years should not be granted in the public space.</p> <p>The reasons for our opposition are:</p> <ol style="list-style-type: none"> 1. 20 years is the statutory minimum under the RMA. 2. Prescribing the statutory minimum as a maximum in the Plan creates inefficiencies, by increasing the cost (both public and private) of consenting. 3. Consent for more than 20 provides greater certainty for businesses operating in the public space and ensures a financial return on investments. 4. Consents for more than 20 years are often justifiable, such as where the effects are well understood or able to be managed through adaptive management. <p>We seek that Point 2 of the submission be disallowed.</p>
14	<p>We oppose the submission of:</p> <p>The Kenepuru and Central Sounds Residents Association Incorporated, 2725 Kenepuru Road, RD 2, Picton 7282 (869).</p> <p>The particular part of the submission we oppose is:</p> <p>Submission point 12, which seeks to insert into policy 13.1.1 after the words “in areas with” the phrase “, or in proximity to,”.</p> <p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 1. The introduction of the concept of proximity makes it impossible to judge with certainty whether an activity is or is not in accordance with the policies. <p>We seek that the whole of submission point 12 be disallowed.</p>
15	<p>We oppose the submission of:</p> <p>The Friends of Nelson Haven and Tasman Bay Incorporated, PO Box 98, Rai Valley 7145 (716).</p> <p>The particular part of the submission we oppose is:</p> <p>Point 155, which seeks to extend policy 13.3.4 over parts of Pelorus Sound, Tennyson Inlet, Okiwi Bay, Admiralty Bay, and Eastern Tasman Bay.</p>

	<p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 1. Recreational use should not have priority in those areas identified. <p>We seek that the whole of submission point 155 be disallowed.</p>
16	<p>We oppose the submission of:</p> <p>Friends of Nelson Haven and Tasman Bay Incorporated, PO Box 98, Rai Valley 7145 (716).</p> <p>The particular part of the submission we oppose is:</p> <p>Point 191. The Friends seek to make marine navigational aids (including lighting) and any supporting structure a controlled activity, unless authorised as ancillary by a consent through another activity.</p> <p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 1. Marine navigational lighting is controlled under separate legislation. There is no need to control it under the Resource Management Act and the Maritime Transport Act 1994. <p>We seek that the whole of submission point 191 be disallowed.</p>
17	<p>The Bay of Many Coves Residents Association and Ratepayers Association Incorporated, 72 Ferry Road, Spring Creek 7202 (1190).</p> <p>The particular part of the submission we oppose is:</p> <p>Point 34 as it applies to preventing anchoring within a buffer zone around an ecologically significant marine site.</p> <p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 1. Anchoring may not be appropriate within an ecologically significant marine site, but ought to be permitted in the buffer zone. <p>We seek that point 34 of the submission be disallowed.</p>
18	<p>The particular parts of the submissions we oppose are:</p> <p>Pinder submission point 49; Guardian submission point 49; Sea Shepherd submission point 49; and The Marlborough Environment Centre submission point 43, which seek to prohibit dredging and anchoring in a buffer zone around ecologically significant sites.</p> <p>The reasons for our opposition are:</p> <ol style="list-style-type: none"> 1. The creation of a buffer zone should be undertaken on a case by case basis, recognising that marine farming structures regularly create a defacto buffer zone of their own. 2. Anchoring will be appropriate in the buffer zone. <p>We seek that the part of the submission points identified above which refers to the area in the buffer zone be disallowed.</p>

19	We support the detailed further submissions of The Marine Farming Association Incorporated and Aquaculture New Zealand Limited in their entirety.
----	---



Marlborough Sounds Marine Farms and Proposed Marlborough Environment Plan

Outstanding Natural Landscape or Features - MEP and Submitters

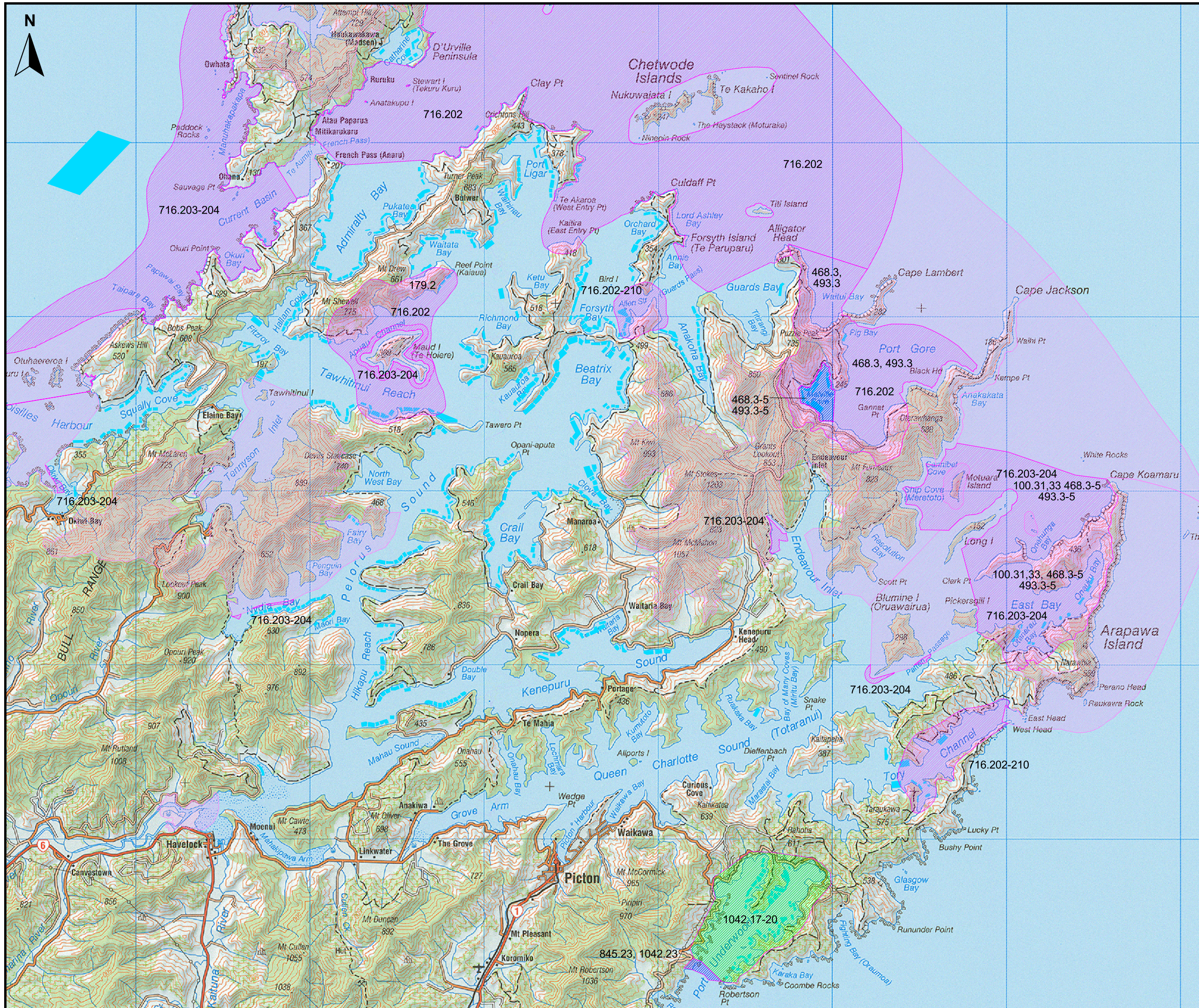
- KEY**
- Granted Marine Farm
 - MEP - Outstanding Natural Landscape or Features
 - Submitters - Outstanding Natural Landscape or Features
- 800.5 Submitter Number & Point

MEP data supplied by Marlborough District Council. Marine Farm data sourced from MDC Open Data (July 2016). Topo Map data from LINZ Data.

Produced by Draughting Plus Ltd from Marine Farm Data supplied by Marlborough District Council. The accompanying material has been released by Council from its information repositories as they exist as at June 2016. Council does not accept any responsibility for the initial and ongoing accuracy of the material. It is the responsibility of the recipient to make such checks as the recipient considers appropriate to ensure accuracy.

Scales (at A3)
 Main Map 1:200,000
 Port Hardy Inset 1:200,000
 Clifford Bay Inset 1:250,000

Prepared: 15th June 2017



Marlborough Sounds Marine Farms and Proposed Marlborough Environment Plan

Outstanding Natural Character MEP and Submitters

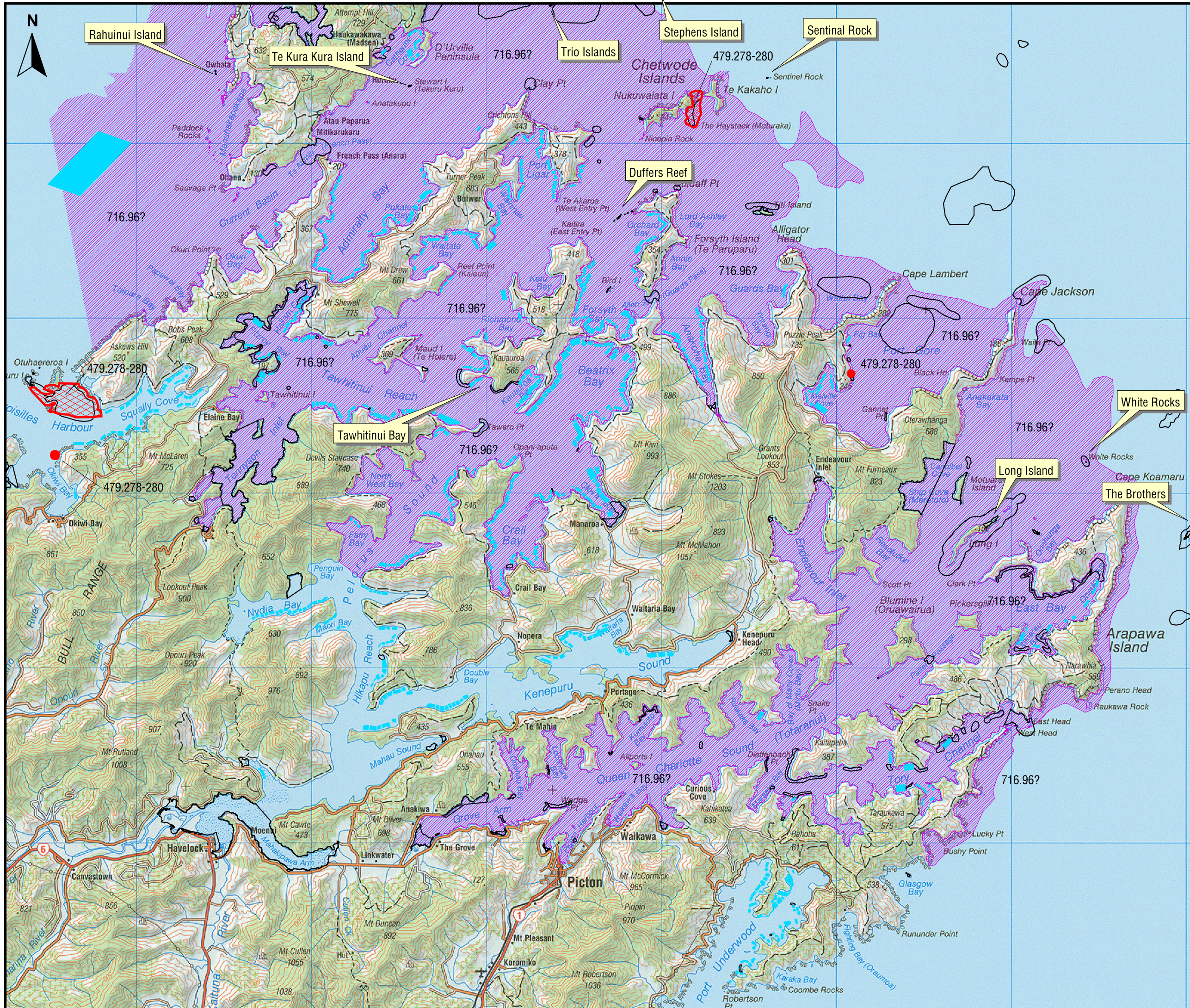
- KEY**
- Granted Marine Farm
 - MEP - Outstanding Coastal Natural Character
 - Submitters - Outstanding Coastal Natural Character
 - Submitters - Very High Coastal Natural Character
 - Submitters - Moderate - High Coastal Natural Character

MEP data supplied by Marlborough District Council. Marine Farm data sourced from MDC Open Data (July 2016). Topo Map data from LINZ data.

Produced by Draughting Plus Ltd from Marine Farm Data supplied by Marlborough District Council. The accompanying material has been released by Council from its information repositories as they exist as at June 2016. Council does not accept any responsibility for the initial and ongoing accuracy of the material. It is the responsibility of the recipient to make such checks as the recipient considers appropriate to ensure accuracy.

Scales (at A3)
 Main Map 1:200,000
 Port Hardy Inset 1:200,000
 Clifford Bay Inset 1:250,000

Prepared: 15 June 2017



Marlborough Sounds Marine Farms and Proposed Marlborough Environment Plan

MEP Ecologically Significant Marine Sites and Submissions

- KEY**
- Granted Marine Farm
 - MEP - Ecologically Significant Marine Sites
 - Ecologically Significant Marine Sites New/Amended (DoC/MDC)
 - Proposed Important Bird Areas at Sea - Forest & Bird (2014)
 - Site Name
 - Proposed Important Bird Areas on Land - Forest & Bird (2015)

MEP data supplied by Marlborough District Council. Marine Farm data sourced from MDC Open Data (July 2016). Topo Map data from LINZ Data.

Produced by Draughting Plus Ltd from Marine Farm Data supplied by Marlborough District Council. The accompanying material has been released by Council from its information repositories as they exist as at June 2016. Council does not accept any responsibility for the initial and ongoing accuracy of the material. It is the responsibility of the recipient to make such checks as the recipient considers appropriate to ensure accuracy.

Scales (at A3)
Main Map 1:200,000

Prepared: 23 June 2017

Schedule C

Decision of the MEP Hearings Panel: <https://www.marlborough.govt.nz/your-council/resource-management-policy-and-plans/proposed-marlborough-environment-plan/decisions-on-the-pmep/full-decision-on-the-pmep>

Track Changes of the MEP: <https://www.marlborough.govt.nz/your-council/resource-management-policy-and-plans/proposed-marlborough-environment-plan/decisions-on-the-pmep/pmep-tracked-changes-version>

Schedule D: Persons to Be Served With a Copy of this Notice

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