SUBMISSION ON THE PROPOSED MARLBOROUGH ENVIRONMENT PLAN

SUBMITTER DETAILS:

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SUBMISSION

A. This is a submission on the proposed Marlborough Environment Plan (**PMEP**).

B. The Environmental Defence Society (**EDS**) could not gain an advantage in trade competition through this submission.

C. EDS wishes to be heard in support of this submission.

D. If others present a similar case EDS will consider presenting a joint case at hearing.

E. EDS's submission is as follows:

(a) EDS is a not-for-profit, non-government national environmental organisation. EDS was established in 1971 with the objective of bringing together the disciplines of law, science and planning in order to promote better environmental outcomes in resource management. EDS has been active in assessing the effectiveness of the Resource Management Act 1991 (**RMA**) and planning documents in addressing key environmental issues including landscape, natural character, biodiversity, coastal management and fresh water.

(b) EDS seeks that Marlborough District Council (**MDC**) discontinue the PMEP Schedule 1 process and that the PMEP be re-notified as a complete document once the aquaculture provisions are ready.

(c) EDS also seeks the changes set out in this submission or similar alternative relief, as well as any consequential relief (in particular to the planning rules).

(d) EDS considers that if the PMEP proceeds without the aquaculture provisions and that unless the changes, deletions and additions sought in this submission are made, then the PMEP:

(i) Will not promote the sustainable management of resources;

(ii) Will be inconsistent with the resource management principles in Part 2 RMA;

(iii) Will not give effect to the New Zealand Coastal Policy Statement 2010 **(NZCPS**) and the National Policy Statement for Freshwater Management 2014 **(NPSFM**);

(iv) Will represent a failure of MDC to fulfil its functions under s30 and s31 RMA;

(v) Will fail to achieve the designated purpose of the Regional Policy Statement (**RPS**) component of the PMEP to achieve the purpose of the RMA and the integrated management of the natural and physical resources of the Marlborough region in accordance with s59 and s80 RMA;

(vi) Will fail to achieve the designated purposed of the Regional and District Plan (**RP** and **DP**) components of the PMEP to assist MDC in carrying out its functions to achieve the purpose of the RMA in accordance with s63, s73 and s80 RMA;

(vii) Will variously be inappropriate, unnecessary and contrary to sound resource management practice;

(viii) Will not warrant confirmation under s32 RMA; and

(ix) Will allow the generation of significant adverse effects on the environment that should be addressed by the PMEP.

F. High level concerns are set out in **Annexure 1**. Specific concerns and changes are set out in **Annexure 2**.[1] Those Annexures form part of this submission.

H. EDS seeks the following relief:

(a) That the PMEP Schedule 1 process be discontinued and that the PMEP be re-notified as a complete document once the aquaculture provisions are finalised.

(c) The relief specified in **Annexure 1** and **Annexure 2**;

(d) Such other alternative relief as is considered necessary and appropriate to address the concerns set out in this submission; and

(e) Such other consequential relief as is considered necessary and appropriate to address the concerns and relief set out in this submission, in particular to the planning rules.

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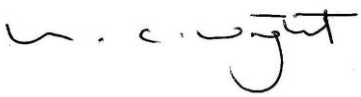

Madeleine Cochrane Wright – 1 September 2016

[1] The track-changes proposed are one way to address EDS's concerns. There are others. EDS seeks either the changes proposed or alternative relief that addresses its concerns.

Annexure 1

A. APPROACH TO PLAN-MAKING – SETTING ENVIRONMENTAL LIMITS

1. The RMA was intended to install a regulatory regime to establish non-negotiable "*bio-physical bottom lines*" (in Part 2 RMA) set to provide for development within the capacity of the environment and the ecosystems that supported. Whatever the trade-offs in the circumstances of a particular development, a higher level trade-off in favour of sustainability had already been made in legislation in advance[2]. Beyond those bottom lines resource users would generally be left to make their own decisions[3]. Through establishing clear and consistent environmental limits the RMA was intended to achieve better environmental outcomes with fewer restrictions on use and development[4].

2. The recent Supreme Court decision ***Environmental Defence Society v The New Zealand King Salmon Company Limited***[5] (***EDS v King Salmon***) confirmed that an environmental bottom line approach to the RMA and plan-making applies. Each document must "*give effect to*" or "*implement*" those that are superior to it in the planning hierarchy. What is required to "*give effect to*" a provision in a higher order document will depend on how specific and directive the language is. Some will be worded to give the decision-maker flexibility in how it is implemented. Others will be so directive that they are (in the ordinary sense of the word) rules.

3. The PMEP should set clear environmental limits for Marlborough. It some areas, for example in outstanding natural coastal landscapes, those limits have been set at the national level. In others MDC has that responsibility. A planning approach premised on bottom lines is clear, certain and consistent. The community can be confident that use and development will only take place within the capacity of the natural environment to sustain itself so that it is safeguarded for future generations. And resource users can make confident decisions about where and how to invest. Environmental limits based on robust science safeguard the environment, and provide for economic, social, and cultural wellbeing.

4. Amendments are proposed to achieve this outcome.

B. INTEGRATED MANAGEMENT

5. The PMEP has been notified without any provisions addressing aquaculture. Those provisions are still subject to review[6]. EDS does not agree with the decision to notify the PMEP with the aquaculture provisions missing.

6. It is MDC's function to achieve integrated management of Marlborough's natural and physical resources through the PMEP.[7] Divorcing the aquaculture provisions from the balance of the plan will severely compromise this outcome. The aquaculture provisions are intimately connected with the balance of the PMEP. The PMEP must be read as a whole and it is impossible to assess the appropriateness of the planning framework applied to sensitive natural areas (in particular the overlays) without that applied to aquaculture. It is artificial to consider management of marine farming and management of the receiving environment in isolation.

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[2] *The Stace Hammond Grace Lecture: Purpose and Principles in the Resource Management Act*, Hon Simon Upton, Waikato Law Review, Vol 3, pg.17-55, at pg. 42.
[3] Hon Simon Upton, *Resource Management Bill: Third Reading*, New Zealand Parliamentary Debate, 4 July 1991, 3018-3020.
[4] Hon Simon Upton, *Resource Management Bill: Third Reading*, New Zealand Parliamentary Debate, 4 July 1991, 3018-3020.
[5] *EDS v King Salmon* [2014] NZSC 41.
[6] www.marlborough.govt.nz.your-council/RMA/the-proposed-MEP
[7] Sections 30,31,59, 63, 64, 72, 80 RMA.

7. Analysis of the aquaculture provisions next to the balance of the PMEP will most likely require amendments to many other chapters[8] so that marine farming is appropriately integrated into the PMEP and the physical environment. It is not efficient or effective to do this in two disconnected stages. It does not give effect to the NZCPS's strategic planning approach.[9]

8. MDC cannot take a staged approach to plan-making when to do so would undermine its essential function to establish objectives, policies and methods to achieve integrated management of natural and physical resources.[10] In the Marlborough context separating the aquaculture provisions from the balance of the PMEP stretches the concept of integrated management to "*breaking point*"[11].

9. EDS seeks that the PMEP Schedule 1 process be discontinued and that the PMEP be re-notified as a complete document once the aquaculture provisions are finalised.

C. RULES

Overlays

10. The planning rules are in Volume 2 which includes 25 chapters addressing general rules[12], zone specific rules[13], and subdivision[14]. There is no specific chapter(s) with rules applying to the PMEP's environmental overlays. In some cases (for example in the Rural Environment and Coastal Environment chapters) there a permitted standards or a different activity status for a particular sub-area overlay or site. However, generally activities in the environmental overlays are not specifically addressed. This is a significant omission.

11. A requirement for consent should be triggered when the size or intensity of a proposed activity has the potential to have adverse environmental effects. In environmental overlays the trigger point will be more restrictive because of the sensitivity of those areas' characteristics and values.[15] That point must be appropriately set for all relevant activities in each overlay to ensure that the rules framework gives effect to the RMA, national policy instruments, and the protective provisions in the PMEP. The PMEP's rules do not achieve this outcome.

12. Key activities that Volume 2 fails to adequately control in the PMEP's environmental overlays are:[16]

    a. Construction and siting of buildings and structure

    b. Vegetation clearance

    c. Forestry & farming

    d. Cultivation and excavation

    e. Subdivision

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[8] For examples the chapters addressing coastal zones, the coastal marine zone, outstanding natural landscapes, natural character, management of the coastal environment, indigenous biodiversity, water quality.

[9] Polic 7. Also directly relevant are Policy 8.

[10] Ibid at [44].

[11] ***Environmental Defence Society v Kaipara District Council*** [2010] NZEnvC 284 at [43].

[12] Chapter 2.

[13] Chapters 3-23

[14] Chapter 25.

[15] This does not mean that any activity over and above the permitted standard will not be able to occur. Rather that it is appropriate that MDC reserves its discretion to assess the proposal at an earlier stage than in less sensitive areas.

[16] Relevantly and by way of example: In the **Rural Environment Zone** specific permitted standards for buildings apply to the Limestone Coastal ONFL, Riparian Natural Character overlay and Significant Wetland overlay but generally ONFL,s Natural Character and terrestrial SNAs are not addressed. The permitted standards for forestry at 3.3.6 ff , vegetation clearance at 3.3.11 ff and 3.3.13 and 3.3.14 cultivation and excavation do not specify tighter restrictions in overlays. The same issues apply to the rules in the **Coastal Environment Zone**. The relevant provisions are: 4.2.1, 4.3.6 ff, 4.3.10 ff (although the general prohibition in 4.3.10.4 is strongly supported), 4.3.12, 4.3.13. Further, Chapter 24 does not place any restrictions on **Subdivision** in overlays. This means that this underlying zone provisions apply.

13. EDS seeks that a specific chapter(s) be in included in Volume 2 setting out the rules framework for each environmental overlay addressing all relevant activities in particular (but not limited to) those identified above.

Stock exclusion

14. Rules 2.11.14 and 2.11.5 provide for exclusion of all "*intensively farmed livestock*" from a flowing river[17] from "*9 June2022*".

15. Stock exclusion is strongly supported in principle but these rules need to be tightened. The PMEP identifies that many of Marlborough's water bodies are degraded and many more are at risk of degradation. Action needs to be taken now and fast. A delay until 2022 is not acceptable.

16. The rules should not be limited to following rivers. Stock exclusion is not prevents direct excrement discharge but it also prevents physical destruction of habitat, erosion, and sediment discharge.

17. EDS seeks that stock also be excluded from the active bed and riparian area of main-stem rivers and of other intermittent and ephemeral rivers where they are important habitat or breeding areas or important to the hydrological function of the water body.

Farm animal discharges

18. Chapter 2 (and the PMEP more broadly) does not clearly control excrement discharge from farm animals as part of a farming operation. These discharges runoff land into water and are a significant stressor on water quality. Although the wording of Rule 2.19.2 is sufficiently broad to capture this scenario (making it a Discretionary Activity) it is more efficient and effective for the PMEP to include a specific rule requiring consent for this activity.

19. These discharges must be controlled for the PMEP to comply with the RMA. Section 15(1)(b) prohibits a discharge to land when that discharge will enter into water unless that discharge is permitted in the plan or a consent is granted. Under s30(c)(ii) MDC must control land use to maintain or enhance water quality. If it does not control farming animal discharges this function will not be achieved. Control is also required to give effect to the NPSFM and to the PMEP's objectives and policies.

20. EDS seeks that discharges from farm animals to land as a part of a farming operation are identified in and controlled by the PMEP as a Discretionary Activity.

D. Port Gore mapping

21. Port Gore is covered by a number of environmental overlays.

22. The entire area (with the exception of Melville Cove) is classified as an Outstanding Natural Landscape. This is strongly supported.

23. The natural character classification is mixed. Port Gore's marine environment is located with Coastal Marine Area 2: Durville Island – North Cook Strait. It is then divided into two sub-areas: 'Cape Lambert – Cape Jackson' and 'Inner Pore Gore'. The 'Cape Lambert-Cape Jackson' sub-area is classified as having outstanding natural character. The 'Inner Port Gore' area is classified as having high natural character.

24. Part but not all of Port Gore's terrestrial environment falls within terrestrial Outstanding Natural Character Area 9 – The Capes. The excluded area extends from the middle of Pig Bay, around the Papatua Headland to Melville Cove. This area has been given no specific natural character value.

[17] River as defined in s2 RMA.

25. It is accepted that the natural character value of the excluded part of Port Gore is less than that of the balance of the area. However, it is not clear why this area has not been classified as having very high or high natural character. EDS is concerned that the natural character assessment, in particular of Pig Bay, has been effected by the presence of marine farms when it should not have been. Although the natural character descriptions in Appendix 2 do not refer to the marine farms in the area the natural landscape description does[18]. Although landscape and natural character are different and the two do not always correlate, it is clear that the presence of the marine farms was in the minds of the assessors.

26. The consents for the marine farms at site 8166 and 8165 have lapsed and MDC has declined consent on application on the basis that the environmental effects of the farms are unacceptable.[19] Because of this change in context the natural character mapping should be revisited. The removal of the marine farms may result in a change in the natural character rating of Pig Bay and this needs to be assessed.

[18] Appendix 1, ONL 12 – Cape Jackson, Cape Lambert & Alligator Head.
[19] This decision has been appealed to the Environment Court. EDS is a s274 party to the appeal.

ANNEXURE 2.A

EDS reasons and relief in comment boxes and/or track-changes.
EDS also seeks any consequential relief, including to the PMEP rules, necessary to respond to the issues raised and give effect to the changes sought.
Provisions not specifically commented on are supported (subject to the changes sought).
Referenced cases:
St Colomba's Environmental House Group v Hawkes Bay Regional Council W85/94.
Environmental Defence Society Inc v New Zealand King Salmon Co Ltd [2014] NZSC 38.

1. Introduction

In Marlborough, quality of life and wellbeing are very much dependent on how we use, develop and protect our natural and physical resources such as the coast, soils, rivers, groundwater, air, landscape, towns, roads, infrastructure, biodiversity and so on. The use or development of natural resources, including land, freshwater and coastal water, also provides for social, cultural and economic wellbeing.

We all know that our very existence and desire to develop and grow as a community can compromise the things that make our life in Marlborough special. Dealing with the pressures surrounding how we use our resources is challenging, especially as we have differing views about how Marlborough's natural and physical resources should be looked after. It is therefore important that the best interests of the environment as a whole be the guiding factor in achieving sustainable management. We need to be concerned with the long-term implications of how we respond to change, ensuring that future generations and their quality of life is not limited by the decisions or actions (or inaction) we make today.

How we use, develop and protect Marlborough's resources is governed to a large extent by the Resource Management Act 1991 (RMA). The RMA's single purpose is to promote the sustainable management of natural and physical resources.

5 Purpose

(1) The purpose of this Act is to promote the sustainable management of natural and physical resources.

(2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—

(a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

(b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and

(c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

In achieving the purpose of the RMA, the Marlborough District Council (the Council) must have regard to a number of principles set out in Sections 6, 7 and 8 of the RMA.

Section 6 requires the Council to recognise and provide for matters of national importance. These include matters in relation to:

- the natural character of the coastal environment, wetlands, lakes and rivers;
- outstanding natural features and landscapes;
- areas of significant indigenous vegetation and significant habitats of indigenous fauna;
- public access to and along the coastal marine area, rivers and lakes;

- the relationship of Maori with their ancestral land and sites;
- historic heritage; and

protected customary rights. Section 7 contains matters to which the Council must have particular regard to. These include amenity values, kaitiakitanga, quality of the environment, efficient use and development of natural and physical resources, intrinsic values of ecosystems and the benefits from the use and development of renewable energy.

Section 8 requires the Council to take into account the principles of the Treaty of Waitangi.

More specific national direction is given through national policy statements, such as the New Zealand Coastal Policy Statement 2010 and the National Policy Statement for Freshwater Management 2014, and through national environmental standards. Regional and district level plans must implement these documents.

To achieve the purpose of the RMA, the Council is required to prepare a hierachy ~~range~~ of documents, some of which are mandatory, while others are optional. A regional policy statement, regional coastal plan and district plan are mandatory documents, whereas other regional plans are optional. As the Council is a unitary authority, that is, it has the roles of both a district and a regional council, it is responsible for preparing all of the required RMA policies and plans.

The purpose of regional policy statements is set out in Section 59 of the RMA and it is "*to achieve the purpose of the Act by providing an overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region*". The purpose of regional and district plans is to assist the Council in carrying out its functions in order to achieve the purpose of the RMA and specifically for a regional coastal plan, to achieve the purpose of the RMA in relation to the coastal marine area. Each planning document must give effect to the documents that are above it in the hierarchy. This applies even if all or a number of the different planning documents are incorporated into one.

Comment [N1]:
The introduction should also include reference:
-to the relationship between national planning instruments and the PMEP.
-the relationship between the different parts of the PMEP.
Without this the introduction paints an incomplete picture of the plan-making process. This also provides a clear link between the introduction and the more descriptive background section.

Changed resource management framework

Previously, the Council has had a separate regional policy statement and two geographically- based coastal, district and regional plans (the Marlborough Sounds Resource Management Plan and the Wairau/Awatere Resource Management Plan). In Section 79(1) of the RMA there are requirements set out for when regional policy statements and plans are to be reviewed. These documents may be reviewed either in part or in full; the Council undertook a full review of the Marlborough Regional Policy Statement 1995 and the Marlborough Sounds and Wairau/Awatere Resource Management Plans in accordance with Section 79(4) of the RMA.

In undertaking a statutory review of these documents, the Council has opted to combine all three into a single Marlborough Environment Plan (the MEP). This approach is enabled through Section 80 of the RMA. The intention is to provide a simplified and more streamlined resource management framework for all users. More detail on the approach is set out in Chapter 2 - Background but overall the framework:

- describes how we as a community want the natural and physical assets of Marlborough to be managed;
- provides a coherent view on how our coasts, freshwater resources, rural areas, towns, natural habitats, etc and their interrelationships should be managed;
- influences the actions of individuals and the actions of the Council; and
- manages the actions of all resource users.

~~Guiding principles~~

~~The Council used guiding principles in the development of the objectives, policies and methods throughout the chapters of the MEP. These principles are the philosophy and values that underlie the content of the MEP but do not in themselves have specific objectives, policies or methods.~~

~~Quality of life comes from interactions between individuals, the community and their~~

Comment [N2]:
The 'guiding principles' are opposed and should be deleted because:
1.They incorrectly re-interpret and conflict with Part 2 RMA. When faced with an identical situation the Environment Court has previously found: "*…it is not the function of an RPS through a group of such principles to interpret and qualify the statutory purpose and principles of the Act as a separate component of the Plan*". ***St Columbo's*** at pg.8

2.They marginalize protection of the environment and fail to recognize and reflect the concept of environmental bottom lines. The RMA was intended to install a regulatory regime based on non-negotiable environmental bottom lines set in Part 2 RMA. This was recently confirmed by the Supreme Court in ***EDS v King Salmon*** [2014] NZSC 38.

3.They import an inappropriate focus on private property rights. Principle 10 states: *The Council will only intervene in the exercise of private property rights to protect the environment and wider public interests in the environment*. The Environment Court has held that the RMA "*is not about rights to the ownership of resources per se…but the sustainable management of resources*": ***St Columbo's*** at pg.8.

surroundings.

The wellbeing of people and communities is indicated by the quality of life available to them. This includes the provision of food, shelter and clothing, economic prosperity through job and business opportunities, health and safety, spiritual and cultural freedom and the qualities and characteristics of the environment they live in. Maintaining or enhancing the wellbeing of people and communities, whether in rural, coastal or urban areas, therefore contributes significantly to social, economic and cultural wellbeing. This particular principle is important in the context of the purpose of the RMA, which states that "*sustainable management of natural and physical resources means managing the use, development and protection of resources in a way or at a rate that enables people and communities to provide for their social, economic, and cultural well-being.*"

A healthy Marlborough economy requires a healthy environment.

While it is not the role of the MEP to directly address economic matters, it does have a role in supporting sustainable business and economic growth within a resource management framework. Maintaining the health of the environment will assist the primary sector in particular to continue to make a significant contribution to the Marlborough economy and the wellbeing of our communities. The productive use of natural resources relies on both the quality of the resource as well as sustainable allocation frameworks to enable use of water, land and coastal resources.

It is important that the kaitiaki role of Marlborough's tangata whenua iwi is recognised, as their perspective provides a valuable cultural input into the management of natural and physical resources.

Marlborough has a long and extraordinary history of Maori settlement. As kaitiaki, Marlborough's tangata whenua iwi have unique insights into and concepts of managing the use, development and protection of natural and physical resources. These insights and concepts can improve the overall management of Marlborough's land, water, air, coastal and biodiversity resources.

Encouraging and supporting individual, landowner, key stakeholder and community involvement and action is critical to effective resource management.

Working with others is efficient, increases the sense of ownership and responsibility and provides opportunities for innovation and feedback to the Council on issues with the implementation of the provisions of the MEP. This means the Council remains responsive to the needs and aspirations of the community.

Providing the community with a streamlined and simplified resource management framework to make it easier for resource users and other interested parties to use.

The Council has decided to maximise the opportunity as a unitary authority to integrate a regional policy statement with regional coastal, regional and district plan provisions. This simplified framework will be easier for resource users and other interested parties to use.

Where the Council and another agency manage use of the same resource, it is important that any duplication in management is avoided.

As a general principle, the Council will not regulate resource use when the use is already effectively managed by another agency. This simplifies matters for resource users transacting business and results in more efficient and effective management.

Ensure that any regulation is in keeping with the scale of the activity regulated.

The Council has sought to use permitted activity rules as much as possible to regulate the adverse effects of activities. However, rules requiring resource consent for an activity are necessary when there is a risk of significant adverse effects or when the effects of an activity are unknown or difficult to quantify. Clear rule triggers will remove any ambiguity about whether resource consent is required or not.

Use non-regulatory methods where possible.

Non-regulatory methods can be effective in helping to achieve the purpose of the RMA. They can be used proactively as they do not rely on a person proposing to undertake some form of resource use in order to be implemented. They can also be used in a way that involves the community in the process of implementation.

~~**Align regional and district rules with those of adjoining regional and territorial authorities where practical**~~

~~Aligning the Council's rules with those of adjoining local authorities (and vice versa) will reduce resource user frustration with real or perceived inconsistent approaches. This principle applies to both permitted activity standards and the triggers for resource consent. This simplifies matters for resource users transacting business where that business occurs across district boundaries or in more than one district.~~

~~**The Council will only intervene in the exercise of private property rights to protect the environment and wider public interests in the environment**~~

~~Allowing people to make their own decisions about land use enables changes to land use and management practices to be made quickly in response to changing environmental and/or market conditions. Such adaptability is important for overcoming the vulnerabilities created by a small economy reliant on the primary sector and the processing of outputs from that sector.~~

~~**It is important that people live and work in locations and in situations that have a minimal risk of being adversely affected by a hazard event**~~

~~Marlborough is subject to a range of natural hazards. The risks to people, communities and community infrastructure from hazard events must be reduced to acceptable levels as much as is practicable.~~

~~**Being aware of the potential for reverse sensitivity effects between different resource uses, whether on land, or water or between the two**~~

~~Reverse sensitivity effects occur when people establish new activities sensitive to the effects of existing activities in the vicinity. This can lead to restraints or demands against the existing activities and can cause tension and conflict in the community. Making sure activities are appropriately located and carried out within appropriate limits is therefore very important.~~

~~**Recognise that the Marlborough Sounds is the District's "jewel in the crown"**~~

~~**The Marlborough Sounds is a unique coastal environment, highly valued by residents and tourists alike. A range of physical characteristics contribute to people's appreciation of the Marlborough Sounds, including biodiversity, landscape, natural character and open space. The significance of the Sounds and the role they play in our coastal environment creates a unique and quality living environment.**~~

Structure of the MEP

Four volumes form the MEP:

Volume 1

Volume 1 sets out the regionally significant issues facing Marlborough and the objectives and policies to achieve integrated management of Marlborough's natural and physical resources. It is structured according to the different natural and physical resources and values that exist in the Marlborough environment and provides a comprehensive policy framework within which decisions can be made. It is also a guide to the development of courses of action to achieve the objectives.

Immediately after each of the objectives, policies and methods, the principal reasons for adopting them are given. In many cases the provisions of each chapter of Volume 1 are to be read in conjunction with provisions from other chapters in Volume 1 to help inform the sustainable management purpose of the RMA. This reflects both the interconnected nature of resources and in particular the Council's role as both a regional and district council.

Volume 1 also includes methods to achieve the policies using both regulatory and non-regulatory means. In some cases these methods outline who is to carry out the action.

Environmental results anticipated from implementing the policies and methods are identified at the end of each of the values, area and activity based chapters.

Volume 2

This volume of the MEP sets out the rules to follow in order to achieve the objectives, policies and methods. The rules are a combination of zone-based and district-wide provisions and in some cases are also subject to overlays. Volume 2 contains both regional and district rules as well as a glossary section that defines the words, terms and phrases used in the MEP.

Volume 3

Volume 3 contains the appendices referred to in Volumes 1 and 2. This includes designations, areas of heritage values, landscape and natural character significance values etc.

Volume 4

Volume 4 contains the planning maps for Marlborough, an integral part of the MEP in that they establish graphically the areas to which the rules set out in Volume 2 apply. This volume also includes overlay maps to which policy and rules apply.

Two other volumes are included for information, but do not form part of the statutory MEP in terms of being subject to First Schedule processes of the RMA.

Volume 5

Contains copies of national policy statements, national environmental standards and resource management regulations.

Volume 6

Records the statutory acknowledgments for Marlborough's tangata whenua iwi.

EDS reasons and relief in comment boxes and/or track-changes.
EDS also seeks any consequential relief, including to the PMEP rules, necessary to respond to the issues raised and give effect to the changes sought.
Provisions not specifically commented on are supported (subject to the changes sought).
Referenced cases:
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Environmental Defence Society Inc v New Zealand King Salmon Co Ltd [2014] NZSC 38.
Environmental Defence Society Inc v New Zealand King Salmon Co Ltd [2014] NZSC 38.
Royal Forest & Bird Protection Society v New Plymouth District Council [2015] NZEnvC 219.
Hon Simon Upton, ***Resource Management Bill: Third Reading***, New Zealand Parliamentary Debate, 4 July 1991, 3018-3020.
The Stace Hammond Grace Lecture: Purpose and Principles in the Resource Management Act, Hon Simon Upton, Waikato Law Review, Vol 3, pg.17-55, at pg. 42.

2. Background

The Resource Management Act 1991 (RMA) promotes integrated management of natural and physical resources. This is reflected in the purpose of a regional policy statement, which is to promote the sustainable management of natural and physical resources in Marlborough by:

(a) providing an overview of the resource management issues of the district; and

(b) identifying policies and methods to achieve *integrated management* of the natural and physical resources of the whole district.

Identifying regionally significant issues

The following criteria were used to determine whether an issue is regionally significant for Marlborough.

Does the issue involve a resource that is scarce, rare, unique and/or is under threat?

This includes both natural and physical resources and could include the limited availability of water in some parts of Marlborough or it may include the habitats of threatened indigenous species.

Is the issue a widespread problem apparent throughout Marlborough or large areas of Marlborough?

This type of issue may even cross local authority boundaries. An example of this is the management of pests.

Is there a conflict in resource use?

This may be evident where there is the presence of or the potential for significant conflicts in resource use. An example of this could be between recreational and commercial users of the Marlborough Sounds.

Are there any significant cumulative impacts arising from resource use?

This could arise in the use of both natural and physical resources. An example could be the expansion of urban areas where issues with roading, effluent disposal, rural amenity and flooding may be apparent.

These criteria have been used throughout the review process in identifying issues that must be addressed. Results gained through monitoring Marlborough's resources and from the emerging pressures that have become evident in recent times are also taken into account. (Monitoring results have been reported regularly to the community through the Council's state of the environment monitoring reports and are available on the Council's website.)

~~Review process~~

~~In carrying out the review there has been significant consultation with the Marlborough community and particularly with individual landowners. Initial consultation began with flyers to ratepayers and discussion papers seeking feedback on what were considered to be regionally significant issues for Marlborough and options to address these. Additionally the review process saw a number of supporting projects looking at key issues. Information about Marlborough's outstanding landscapes, natural character, wetlands, allocation of water, significant marine areas and freshwater values was gathered and urban growth strategies for north and south Marlborough were developed. These projects resulted in significant numbers of private landowners being~~

Comment [N1]:
This section should be deleted. It is unnecessary and does not add to the interpretation or implementation of the PMEP. Generally the background section should be reviewed and amended to make it more streamlined and focused.

directly consulted, especially those whose properties were identified as having significant wetland or important landscape values.

Early in the review process the Council considered it important for the provisions to be 'tested' before the new resource management documents were formally notified under the First Schedule of the RMA. The rationale for this was that the greatest flexibility for change to provisions actually exists prior to notification of a proposed document. Once notified, only those provisions submitted on can be changed and then only within the scope of those submissions. For this reason the Council organised a number of focus groups with the task of reviewing the provisions and discussing their likely effectiveness or otherwise. The aim was to identify and resolve any substantive issues prior to notification, which would then have the effect of minimising the number and size of submissions received and effectively expedite the First Schedule process.

Given the interconnections between many of the issues, resource based focus groups were established (Rural, Urban, Freshwater and Marine). Key stakeholders with experience in resource management issues were used in each of the focus groups. A number of issue based groups had already been established by the Council. These groups included the Sounds Advisory Group, the Landscape Group and the Significant Natural Areas Project Group. An Iwi Working Group had been established early in the review process and continued in its existing partnership role with the Council in the development of policy. Energy and Utility groups also considered draft provisions.

A Practitioners' focus group was established to provide an objective and external view of provisions from those in the planning and legal professions. The Council's view was that as these professions will use the resource management documents the most, they would be good indicators of the workability of draft provisions.

The Council did not limit its consultation on the draft provisions to the focus groups; many other organisations were consulted directly. Provisions were also considered by internal staff and the Council's formal committees established to oversee the review process.

Integrated management of the Marlborough environment

Kaitiakitanga, the environmental guardianship practiced by Marlborough's tangata whenua iwi, has its foundation in the world view that all life and elements within the natural world that support life are connected. As a community we also recognise the existence and importance of these connections. Integrated management attempts to acknowledge and provide for the interconnectedness of natural and physical resources within our environment.

Natural and physical resources include land, water, air, soil, minerals, energy, all forms of plants and animals and all structures. Integrated management of the Marlborough environment is important due to the degree of connection between these resources and the multiple agencies responsible for environment management in Marlborough.

Integrated management is an active process of managing the use, development and protection of natural and physical resources as a whole and recognises the following:

(a) The use, development or protection of one natural or physical resource can affect other natural and physical resources or other parts of the environment. These effects can occur across space and over time.

(b) The need for cooperation and coordination between the multiple agencies that have statutory roles and responsibilities for the management of natural and physical resources.

(c) The effect of statutory documents prepared by the Council and others with functions under legislation relating to the management of natural and physical resources, but which is not the RMA.

(d) That natural and physical resources cannot be managed without having regard to the social, economic and cultural interests of the community.

(e) The need for the support of non-statutory agencies, individuals and communities.

The social, economic and cultural wellbeing of our community relies on the use, development and protection of our land, water, air, soil, mineral and energy resources, plants and animals and structures. A particularly important role for the Council in achieving the social, economic and cultural wellbeing of our community is the allocation of public resources, such as water and coastal space. There is a significant degree of connection between natural resources, especially land and water resources.

Many agencies share responsibility for ensuring Marlborough's natural and physical resources are sustainably managed. Of particular note in Marlborough is that approximately 45 percent of all land is managed by the Department of Conservation (on behalf of the Crown) for conservation purposes. It is therefore important that the various authorities have a common understanding of resource issues and that the responsibility for sustainable management is shared.

In the preparation of the MEP, the Council has consulted widely with other agencies involved with environmental management or involved in the use, development or protection of natural and physical resources. These include central government agencies, adjoining regional and district councils (in respect of cross-boundary issues), groups representing the interests of particular resource users or industries, and other statutory bodies. This ensures a common understanding of the sustainable management of Marlborough's natural and physical resources, as reflected in the objectives, policies and methods contained in this document. Over time this will hopefully be reflected by consistency between the MEP and other statutory environment management documents (such as the Department of Conservation's Conservation Management Strategy) and the day-to-day actions of the Council and others involved in the use, development and protection of natural and physical resources. The extent to which these provisions are successful in achieving integrated management will be reflected in state of the environment reporting.

Marlborough District Council as a unitary authority

Pursuing integrated management as a unitary authority has implications for the structure of this MEP and the Council's resource management framework. As identified above, a regional policy statement must identify regionally significant issues. The concept of "regionally significant" is applicable for the normal structure of local government, as there are resource management issues of significance at both a regional and local scale. However, as the Council is a unitary authority the boundaries between what is regarded as a regional issue as opposed to a local one are more blurred.

Many issues identified in the MEP exist because of the effects of resource use on other natural and physical resources or on other parts of the environment. The objectives that have been set in relation to these issues provide an outcome that should reflect the principle of integrated management. The Council seeks to promote an integrated approach to resolving these issues through the way in which the policies and methods are set out in Volume 1 of the MEP. Each provision is identified as a regional policy statement provision a plan provision or in many cases both.

It is important to recognise that both regulatory and non-regulatory methods have a role in integrated management of natural and physical resources. One challenge is to ensure that the wider public also understand the concept of and need for integrated management. This is reflected in the range of information sharing methods set out in the MEP.

The approach taken in the preparation of the second generation resource management framework for Marlborough has been to simplify the framework. Combining a regional policy statement with regional, coastal and district plans (as enabled through Section 80 of the RMA) will ensure that there is clear and concise direction on critical resource management issues. It will also ensure a user-friendly planning framework.

Marlborough's tangata whenua iwi

In Marlborough, Ngāti Apa, Ngāti Koata, Ngāti Kuia, Ngāti Rārua, Ngāti Toa Rangitira, Ngāi Tahu, Rangitāne and Te Ātiawa have a unique and rich cultural and spiritual heritage as tangata whenua. Collectively, the eight iwi are referred to throughout the MEP as Marlborough's tangata whenua iwi.

The RMA sets up a special relationship between iwi, the Crown and local authorities. The relationship is initially identified through the purpose and principles of the RMA, whereby those seeking to achieve the purpose of the RMA must recognise and provide for as a matter of national importance:

- the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga;
- the protection of recognised customary activities; and
- the protection of historic heritage from inappropriate subdivision, use and development.

The RMA further requires that particular regard is had to kaitiakitanga (guardianship) and that the purpose and principles of the Te Tiriti o Waitangi are taken into account in sustainably managing Marlborough's natural and physical resources.

In developing a regional policy statement, regional plan or district plan, the Council must take into account any relevant planning document recognised by an iwi authority and lodged with the Council, to the extent the document has a bearing on resource management issues for Marlborough[1]. These documents are often commonly referred to as iwi management plans. Iwi management plans are generally prepared as an expression of rangatiratanga to help iwi and hapū exercise their kaitiaki roles and responsibilities. These plans are a written statement identifying important issues regarding the use of natural and physical resources in the rohe of an iwi and often cover more than RMA matters.

Not all of Marlborough's tangata whenua iwi had prepared iwi management plans at the time the MEP was prepared. Subsequently, resource consent applications or plan changes made after the MEP becomes operative may need to consider resource management related provisions of an iwi management plan.

Additionally, the RMA requires that the resource management issues of significance to iwi authorities in Marlborough must be included in a regional policy statement. Through a series of hui with Marlborough's tangata whenua iwi, three distinct groups of resource management issues have been identified:

- cultural issues of fundamental importance that relate to the connection an iwi has to natural and physical resources;
- relationship and process issues, including iwi involvement in decision making on resource consent applications and on developing policy to assist in Council's decision making; and
- issues of significance or concern for iwi as well as for the wider community.

In light of this, issues of significance to Marlborough's tangata whenua iwi have been identified and addressed in three different ways. First, Chapter 3 of Volume 1 describes the core resource management issues of significance for Marlborough's tangata whenua iwi. This chapter also

[1] In addition, the Council also has obligations in respect to planning documents prepared under the Marine and Coastal Area (Takutai Moana) Act 2011, where the content of those documents has a bearing on resource management issues in the region. At the time the MEP was notified, no such management plans were in place.

includes background information on Te Tiriti o Waitangi, the Māori world view, mauri, kaitiakitanga and tikanga.

Secondly, Chapter 3 identifies a specific set of relationship and process issues. These include:

- a lack of representation and recognition of iwi values in decision making processes;
- an overlap in rohe boundaries of Marlborough's tangata whenua iwi and the cross boundary issues between iwi that this creates; and
- historic difficulties in terms of the capacity of iwi to effectively take part in resource consent processing or policy development.

While the issues identified in Chapter 3 are those of Marlborough's tangata whenua iwi, the Council has worked with iwi to develop objectives and policies to address the first two groups of issues. These objectives and policies, set out in Chapter 3, are to be had regard to by those undertaking activities within the framework of the RMA.

The third way in which iwi issues have been addressed are through the remaining chapters of Volume 1, in which the resource management issues of significance for the whole community are identified. The management responses to these issues are set out in the remaining chapters of the MEP.

Working with others to sustainably manage Marlborough's natural and physical resources

The Council has a statutory role to sustainably manage Marlborough's natural and physical resources under the RMA; that is not to say that others do not also have important roles to play in helping to achieve that purpose. For example:

- Other statutory agencies have specific responsibilities for managing particular natural and physical resources through separate pieces of legislation.
- Resource users play an essential role in ensuring their day-to-day activities are sustainable in the long term.
- Iwi are kaitiaki of natural resources within their rohe.
- The community is affected by the management of natural and physical resources.

It is essential that the management applied variously by management agencies, resource users, iwi authorities and the community is integrated in order to achieve the objectives established in the MEP. Those involved in managing natural and physical resources should work collaboratively and on an on-going basis to efficiently and effectively respond to resource management issues (or to avoid those issues in the first place).

The Council will meet with the groupings listed below to ensure regular communication and exchange of information. Feedback from the various agencies, organisations and individuals will inform the assessment of the efficiency and effectiveness of the existing resource management framework contained in the MEP. It will also enable the application of consistent or co-ordinated approaches when more than one management agency has a responsibility for the management of a particular resource.

Statutory agencies

A number of statutory agencies operate under legislation, which is in some instances completely separate from the RMA. However, the responsibilities of these agencies do overlap with the sustainable management purpose of the RMA. In some cases there is a dual responsibility with the Council to manage certain resources under the RMA such as the Department of Conservation in respect of the coastal marine area. This sees a particularly close relationship with that agency.

Statutory agencies that will be the Council's focus in establishing a collaborative approach in achieving sustainable management include the following:

- Ministry for the Environment;
- Ministry for Primary Industries;
- Department of Conservation;
- Nelson/Marlborough Fish and Game;
- New Zealand Historic Places Trust; and
- Adjoining local authorities.

Resource users

Resource users play a key role in the sustainable management of natural and physical resources through their day-to-day activities. Increasingly, resource users are taking greater responsibility for managing the effects of resource use and development. This is reflected in the non-regulatory methods contained in the MEP aimed at providing resource users with the information and tools they need to improve management practices. Resource users may also assist the Council with the implementation of other non-regulatory methods and play an essential role of informing the Council of practical issues with the implementation of either regulatory or non-regulatory methods. The Council will meet with industry groups on a regular basis to encourage communication and information exchange.

Iwi authorities

As identified previously, there are eight iwi with tangata whenua status in Marlborough: Ngāti Apa, Ngāti Koata, Ngāti Kuia, Ngāti Rārua, Ngāti Toa Rangitira, Ngāi Tahu, Rangitāne and Te Ātiawa. Each of the Council's standing committees offers an opportunity for an iwi representative to be a full member of the committee with speaking and voting rights; representatives are appointed collectively by the eight iwi. This allows the views of Marlborough's tangata whenua iwi about the activities of the Council, not just in resource management terms, to be heard.

An Iwi Working Group was also established to identify issues of significance to iwi authorities as part of the review process for the MEP. The Iwi Working Group will continue to operate in response to future changes to the MEP.

Community groups

The Council meets with a variety of groups on resource management issues and these groups reflect the diverse nature and interests of Marlborough's community. Some groups are issue-based, such as the Landscape Group, which has a focus on landscape matters across the District, while others are area-based, such as the Sounds Advisory Group, which has a particular focus on all matters in the Marlborough Sounds. The value of these groups cannot be underestimated, as they are important ears and eyes within the environment, often highlighting issues that need a resource management response. Many of these groups already meet with the Council on a regular basis and the intention is for this to continue.

The commitment to engage with the above groupings also reflects the Council's "Smart and Connected" vision described under 'Other strategies and plans'. These interactions ensure that the Council remains connected with its community and that the management framework remains responsive to the needs and aspirations of the community.

Relationship of the MEP to other policy statements, standards and strategies

The RMA provides for a hierarchy of resource management policy statements and plans related to the three principal levels of government: central, regional and district. It is important to note

however that within a Marlborough context, both the regional and district level resource management functions are undertaken by the Council.

National policy statements and national environmental standards

National policy statements are prepared by central government and cover matters of national significance. Regional and district-level planning documents prepared under the RMA must give effect to national policy statements. The RMA requires a coastal policy statement (prepared by the Minister of Conservation) to be in place at all times. The RMA also states that the Minister for the Environment may prepare a national policy statement for other matters of national significance. Other than the New Zealand Coastal Policy Statement 2010, central government has three approved national policy statements:

- National Policy Statement on Electricity Transmission 2008;
- National Policy Statement for Renewable Electricity Generation 2011; and
- National Policy Statement for Freshwater Management 2014.

Central government can also prepare national environmental standards: technical standards relating to the use, development and protection of natural and physical resources. Such national standards provide an opportunity to promote nationally the use of consistent standards, requirements or practices. National standards override existing provisions in plans that require a lesser standard. National environmental standards for air quality, sources of human drinking water, telecommunications facilities, electricity transmission and managing contaminants in soil have effect.

For details of specific national policy statements and national environmental standards, refer to the Ministry for the Environment website (www.mfe.govt.nz). Copies of each of the operative national policy statements and national environmental standards are included in Volume 5 of the MEP for information and easy reference.

Relationship between the different planning documents incorporated into the MEP

…

Relationship between the MEP and Long Term Plan

Under the Local Government Act 2002, the Council has prepared the 2015-25 Long Term Plan (LTP). This sets out the Council's strategic directions and programmes for the next 10 years. The LTP provides a description of the significant activities that the Council plans to carry out over the next ten years, the objectives of those activities and their costs.

The LTP also identifies 6 Community Outcomes for Marlborough. These outcomes describe Marlborough's potential for the future, as a result of actions taken by the Council now and in years to come.

One of the Community Outcomes included in the LTP is "Environment". The LTP recognises that our social and economic wellbeing relies on the quality of our environment. Given that the role of the MEP is to promote the sustainable management of natural and physical resources, it has an obvious responsibility to achieve the Community Outcome of Environment. The MEP has also been prepared with regard to other Community Outcomes within the LTP. This will ensure that implementation of the MEP contributes to these outcomes, where possible.

The review periods for the LTP and MEP do not necessarily coincide. This means that other community outcomes could have environmental implications that may, in future, conflict with the MEP. This does not mean that resource management decisions must comply with LTP; these decisions must still be made in accordance with the objectives and policies of the MEP and under the framework of the RMA.

The LTP also describes how the Council proposes to fund its activities, including the implementation

Comment [N2]:
A section setting out the different planning documents incorporated into the PMEP should be included. This should explain the hierarchy of planning documents and the role of each document and the relationship between them (i.e. the requirement to give effect to different planning documents). This is necessary for the relationship between the PMEP's different components to be clear to plan users.

of the methods set out in the MEP. Given the limited funding available, the Council has prioritised these methods. As a result, the methods included in the MEP are those considered essential to achieving the objectives. The LTP is updated every three years; this

means that the methods contained in the MEP but not currently reflected in the LTP could be included in the future.

Other strategies and plans

There are a number of national strategies drawn up by central government and its agencies prepared under other Acts. A council is required to have regard to such management plans and strategies when preparing or changing a regional policy statement or plan to the extent that their content has a bearing on resource management issues of the District. They assist in the identification of natural and physical resource management issues, choices made at a national level and priorities for action if New Zealand is to reach goals for the future, and often contain objectives.

Some of the documents and strategies considered by the Council in the development of the MEP include the New Zealand Energy Strategy to 2050 (2007), the New Zealand Energy Efficiency and Conservation Strategy (2007), the Regional Renewable Energy Assessment for the Marlborough (2006), the New Zealand Urban Design Protocol (2006) and National Priorities for Action for Protecting Biodiversity on Private Land (2007). Similarly, the Marlborough Regional Land Transport Plan has contributed to policies and methods on infrastructure and energy, urban form and reverse sensitivity.

A number of statutes can also be thought of as companions to the RMA in that their purpose can be interpreted as further supporting the sustainable management of natural and physical resources (e.g. the Conservation Act and the Reserves Act) or have some other relationship with resource management functions (e.g. the Civil Defence Emergency Management Act and the Biosecurity Act).

At a local level, other strategies and visions have been developed by the Council in response to matters including economic development and future growth. These have not been prepared in terms of being required under particular statutes, but are in response to perceived needs for guiding Marlborough's development and growth. In particular, the Marlborough Urban Growth Strategy, “Growing Marlborough,” has provided the basis for the policies and methods on urban form, growth management and infrastructure. The strategy has been prepared in three parts: the Blenheim Town Centre Project; the North Marlborough Project; and the South Marlborough Project. Collectively, the outcomes have focussed on ecological sustainability, appropriate areas for residential growth, identifying areas to cater for employment growth, stronger town centres, strong communities, public open spaces and future proofing transport networks.

A vision developed by the Council in response to Marlborough's future economic progression signals that *“Over the next decade, Marlborough will become a globally-connected district of progressive, high-value enterprise, known for our economic efficiency, quality lifestyle, desirable location and natural environment."* Marlborough will be *“smart and connected.”* The vision recognises that the economic performance of the District depends on many factors, including physical infrastructure and the management of natural resources. The MEP therefore complements the “smart and connected” vision by enabling people to use and develop natural and physical resources in appropriate ways. By doing so, the Council seeks to create conditions for economic growth to occur, as long as that growth is environmentally sustainable.

Issues that cross local authority boundaries

Section 62(h) of the RMA requires the Council to identify processes to be used in dealing with issues that cross local authority boundaries, between territorial authorities or between regions. For the administrative purposes of local government and resource management, the Council is a unitary authority, having the powers and functions of both a regional and district council. This situation reduces the potential for cross boundary issues, but does not completely avoid them.

Cross boundary issues can arise from:

- differences in policies and methods between regional policy statements or plans of adjoining local authorities;
- adverse effects of activities in adjoining areas; and/or
- different community aspirations and goals in adjoining areas.

Councils that adjoin Marlborough include Canterbury and Wellington Regional Councils, Kaikoura, Tasman and Hurunui District Councils, and Nelson City Council. Like Marlborough, Tasman and Nelson are unitary authorities.

As well as geographical boundaries with adjoining councils, the MEP must also address administrative cross boundary issues. These issues arise from dealings with bodies having statutory responsibilities for activities with implications for resource management. These bodies include the Department of Conservation, Ministry of Primary Industries, Nelson/Marlborough Fish and Game Council, Maritime Safety Authority, the Ministry of Transport and the New Zealand Transport Agency.

Under the RMA the mean high water spring boundary separates the primary management responsibilities for the land and coastal water between agencies. The Council, in conjunction with the Minister of Conservation, is responsible for the management of the coastal marine area. The Minister has the responsibility for the final approval of regional coastal plans prepared by a regional council. Landward of mean high water springs the relationship is different and the Council has responsibility for sustainably managing Marlborough's natural and physical resources.

The Council will continue to advise the community about its role and responsibilities for the sustainable management of the natural and physical resources of Marlborough and the links it has with other administrative agencies and interest groups. The Council will also continue to liaise with other agencies and interest groups with responsibility for either managing or using the natural and physical resources of the District.

To address cross boundary issues the Council will use the following processes:

Monitoring	Identify issues that may have cross boundary implications.
Consultation	With central government and adjoining territorial authorities and regional councils on cross boundary issues.
Protocols	Establish, in conjunction with central government and other local authorities, mechanisms for the identification, discussion and resolution of cross boundary issues.
Liaison	Establish, where appropriate, joint working groups, joint committees and other co-operative systems for dealing with and resolving cross boundary issues between central government and other local authorities
Resource Consent Applications, Plan Changes	Use, where appropriate, the provisions in the RMA for joint hearings when applications are made to two or more consent authorities for resource consents for the same activity. Most planning matters and resource consents are unlikely to have cross boundary effects. However, where an activity requires plan changes or resource consents near the district boundary and there is potential for effects to be felt beyond Marlborough, the Council will: • serve copies of applications and requests on adjoining councils;

- promote and facilitate pre-hearing meetings;
- promote and facilitate joint and combined hearings to involve the adjoining council in the decision making process; and
- notify, in terms of consultation under the First Schedule of the RMA, the affected community of interest, even if this extends beyond the boundaries of the MEP.

Advocacy — Promote the Council's perspective on resource management issues to adjoining local authorities and central government, including (where appropriate) making submissions on proposed national policy statements and policy statements of adjoining territorial authorities.

Monitoring the efficiency and effectiveness of the policies or methods

Monitoring is an important part of decision-making processes. It examines the progress being made towards the achievement of objectives and the efficiency and effectiveness of the policy options used. The RMA recognises the value of monitoring and gives the Council major responsibilities in this area through Section 35 of the RMA.

Of direct relevance to the MEP, Section 35 of the RMA requires the Council to monitor:

- the state of the environment;
- the efficiency and effectiveness of policies, rules and other methods contained within the MEP; and
- the exercise of resource consents.

Monitoring is an important mechanism for assessing how the MEP and the Council are fulfilling the purpose of the RMA in promoting the sustainable management of the natural and physical resources of Marlborough. With the number and range of resource management issues, objectives, policies and methods contained within the MEP, the scope for monitoring is large. However, for practical reasons priorities will need to be set for the monitoring program.

In Chapters 4 to 19 of Volume 1, anticipated environmental results that are the intended outcomes of implementing the provisions of the chapter in order to address the resource management issues of significance are identified. Unless otherwise specified, the anticipated environmental results are 10 year targets. For each anticipated environmental result, a series of indicators will be used to monitor the effectiveness of the provisions. These indicators form the basis of the Council's monitoring programme and will, where appropriate or necessary, be prioritised.

The monitoring programme will be undertaken in a comprehensive strategy, comprising three major components that reflect the responsibilities given to the Council under Section 35 of the RMA. These include:

- State of the Environment Monitoring, which measures existing and cumulative effects and establishes levels of environmental quality against which future changes can be measured;
- Compliance Monitoring, which compares anticipated and actual effects of permitted activities and their standards with activities granted resource consent and their conditions; and
- MEP Achievement Monitoring, which assesses the effectiveness of the objectives and policies within the MEP in achieving sustainable resource management.

The data and information gathered in this monitoring allows an assessment as to whether environmental quality is improving, remaining the same or becoming degraded. This information helps inform the community about the condition of the environment and the key pressures it faces and assists decision makers in resource allocation and the consequences of actions. Importantly, it can help us assess how well the policies and methods of the MEP are working in practice, essentially closing the loop in the 'Plan-Do-Monitor-Review' cycle (see Figure 2.1).

Figure 2.1: Plan-Do-Monitor-Review Cycle

The gathering of monitoring information is integrated between a number of sections within the Council (Compliance, Consents, Policy, Assets and Services) and is reported to meet both local and national level requirements.

At times we do not fully understand our natural resources or the environmental issues that continue to change due to various pressures. Investigations are undertaken on key issues to improve our understanding of natural resources, which enables us to provide information to help inform the community and our own RMA policy development to promote the sustainable management of Marlborough's resources. Resource investigations are undertaken internally and by external providers. Collaboration and an integrated approach between councils, government agencies and research organisations help deliver effective and efficient services.

Where, through subsequent analysis of monitoring and/or investigations one or more of the following situations arise, the Council may need to undertake a review of the provisions of the MEP to ensure that the sustainable management purpose of the RMA is achieved:

- monitoring effectiveness of the MEP identifies the need to enhance progress toward achieving anticipated environmental results; or
- major resource management developments arise, such as significant amendments to the RMA or the adoption of national policy statements or national environmental standards that impact on the contents of the MEP; or
- the results of new scientific work enhance the MEP and make provisions more certain for resource users; or
- there is a need to reflect new or changing needs or issues of importance to Marlborough's community.

The Council also has a requirement under Section 79 of the RMA to review its policy statement and plans if the provisions of the policy statement or plans have not been subject to review or change in the previous ten years.

It is important to make monitoring results available to the community. Historically, the Council has done this through state of the environment reports, some of which have been significant documents. In addition to assessing the overall resource management framework for Marlborough, reporting on the state of the environment can help influence peoples' own use of the natural and physical resources of Marlborough.

The development of reporting through annual report cards and more comprehensive state of the environment reports will be coordinated to provide the necessary information for the five-yearly report on a review of the efficiency and effectiveness of policies, rules or other methods of the MEP, as required by Section 35(2A) of the RMA.

How to use the MEP

Identifying regional policy statement, regional plan, regional coastal plan and district plan provisions

Volumes 1 and 2 contain a combination of the regional policy statement, regional plan, regional coastal plan and district plan provisions. Section 80 of the RMA requires the Council to identify within a combined document the provisions that are the regional policy statement, the regional coastal plan, the regional plan or the district plan. The Council has identified each provision in the MEP with one of the following notations: RPS (regional policy statement), C (regional coastal plan), R (regional plan) or D (district plan). In some cases, policy may have both an RPS notation and a plan notation. In these instances, the policy is able to be changed through the private plan change process.

Interpretation of lists

Many sections of the MEP contain lists. These lists should be regarded as cumulative, except where indicated otherwise.

Identifying those rules in the RMP that have immediate legal effect

Under Section 86B of the RMA, a rule in a proposed plan has legal effect only when a decision on submissions relating to that rule has been made and publicly notified by the council. Exceptions to this are where the rule:

- protects or relates to water, air or soil (for soil conservation); or
- protects areas of significant indigenous vegetation; or
- protects areas of significant habitats of indigenous fauna; or
- protects historic heritage; or
- provides for or relates to aquaculture activities.

Those rules that have immediate legal effect upon notification are identified in Volume 2 of the MEP. The associated controls, information requirements, definitions and appendices applicable to those rules also have immediate legal effect.

Use of RMA terms

The Council has used a number of terms and/or words throughout the MEP, some of which are defined in the RMA and many of which are not. Words that are already defined within Section 2 of the RMA, such as 'effect' or 'contaminant' have established meanings and over time have been interpreted through the courts; these definitions are not included within the MEP. Words or terms

not given meaning through the RMA may be given meaning through the Volume 2 of the MEP in Chapter 25, or where they are not so defined, should be read for their normal dictionary definition.

Other terms, such as 'inappropriate', 'significant' and 'life supporting capacity' are used in the RMA without definition in Section 2. It is important for these terms to be interpreted in the context of the issue being considered. Guidance as to what may be considered 'inappropriate' or 'significant,' for example in a particular circumstance, should be gained from the wording of the issue, objective or policy itself and from the explanation accompanying these.

Guidance is provided below on how several commonly used words are to be interpreted. This guidance is provided so that the reader or decision maker can place the appropriate interpretation on the use of the word within a particular provision and because the terms are used widely throughout the MEP.

Enable

The RMA was intended to install a regulatory regime based on bio-physical bottom lines set to provide for development within the capacity of the environment and the ecosystems that supported. Beyond those bottom lines use and development is enabled for people and communities to provide for their wellbeing. This is reflected in the wording of s5(2) RMA.~~The RMA has been described as an enabling piece of legislation. The reason for this can be found in the purpose of the RMA at Section 5(2), where it is stated: '~~:

"sustainable management" means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while ~~…~~ ,

(a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably forseeable needs of future generations; and

(b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and

(c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.

Additionally, in drafting rules, different approaches are needed for different activities. In general, Section 9 of the RMA states that no person may use land (including the surface of water in any river or lake) in a way that contravenes a rule in a district plan or regional plan. In other words, if there is no rule in a plan, then there is no need for restriction on the activity under Section 9 or any need to obtain resource consent.

Sections 12, 13, 14 and 15 adopt the opposite approach. These sections place restrictions on the use of the coastal marine area, on certain uses of the beds of lakes and rivers, on the taking, use, damming or diversion of water and on discharging contaminants into the environment. Essentially, the restrictions mean that there must be a national environmental standard, resource consent or rule in a plan that allows activities of the nature described in Sections 12-15 to occur. This includes permitted activity rules for an activity or effect of a minor nature, which are considered to be enabling rules. Therefore, where the word 'enable' appears within a provision in the MEP, there will be a related rules method.

Avoid

The word avoid is to be given its plain, ordinary mean: to "not allow" or "prevent the occurrence of". ~~Use of the word 'avoid' may or may not have the same meaning as prevent~~. In some cases the method used to implement an avoidance policy is a rule that will 'prohibit' something from occurring. In this case the word 'prohibit' is used within the rules method. There are other policies that use 'avoid' though this is not implemented through a prohibited activity rule. This will be the case when the avoidance directive is focused on a specific effect or effects as opposed to a specific activity. In these policies 'avoiding' an effect can be achieved through undertaking an activity in such a way that the effect does not occur or is significantly reduced. Where this is the case, policies clearly identify that remediation and/or mitigation is an option. It will be important that the explanations and methods accompanying the policies are read to help inform decision makers of the intent of the word 'avoid' where it is used.

Control

Comment [N3]:
This section does not recognize or discuss the second part of s5 RMA. It should. Section 5 RMA should be read as a whole. Use and development is only to be enabled *"while"* or "*at the same time as*" achieving the environmental bottom lines in s5(2)(a)-(b) and the matters of national importance in s6 that "*fall wholly within the concept of sustainable management*" (***EDS v King Salmon***).

The RMA was intended to install a regulatory regime to establish non-negotiable "bio-physical bottom lines" (in Part 2 RMA) set to provide for development within the capacity of the environment and the ecosystems that supported. Whatever the trade-offs in the circumstances of a particular development, a higher level trade-off in favour of sustainability had already been made in legislation in advance. Beyond those bottom lines resource users would be left to make their own decisions with limited restrictions. Through establishing clear and consistent bottom lines the RMA was intended to achieve better environmental outcomes with few restrictions on use and development. (See above for supporting references).

Comment [N4]:
This is incorrect. In ***EDS v King Salmon*** the Supreme Court held that "*avoid*" means "*not allow*" or "*prevent the occurrence of*". It does not always mean prohibit, as the PMEP correctly identifies.

'Control' has direct connotations with the implementation of rules. However, 'control' can be at the permitted activity end of the spectrum with associated standards that must be met for an activity to be permitted, through to a discretionary activity where the full range of effects need to be considered through the resource consent process. The rules methods will identify where controls are necessary to give effect to the policies.

Manage

'Manage' or 'managing,' used in relation to particular activities or effects, can be in the context of regulatory and/or non-regulatory methods. For some activities or effects, rules will be the

mechanism by which management occurs. This could range from permitted activity through to discretionary activity status. Management is also appropriate through a wide range of non-regulatory methods or through regulatory methods available under other statutes. These can include information sharing, use of guidelines, codes of practice, bylaws etc.

Protect

'Protect' means to keep safe from harm, injury, or damage. Protection can be achieved in a variety of ways. How protection is achieved in each instance will depend on what is sought to be protected and what it is to be protected from. ~~Similar to other words in this section, 'protect' can be interpreted in a number of ways. It can be interpreted in a narrow way that may effectively~~ In some situations protection might limit or prevent future use and development of some of Marlborough's natural and physical resources. ~~However, 'protect' essentially means to keep safe from harm and this can be achieved in a variety of ways. For example, the protection of areas of indigenous biodiversity~~ In others it might be achieved through allowing use and development subject to specific controls such as height, location and color, or within specific parameters such as the amount of vegetation that can be removed. Sometimes a combination of approaches will be used. ~~could be achieved through rules in a plan, legal protection of land, fencing, active pest control and/or improved land management practices, or a combination of these approaches.~~

~~It is therefore important that decision makers or those using the MEP provisions read the explanation of the relevant provision, as this will inform how 'protection' is to occur. Unless there is a clear direction within a protection policy or its explanation or associated method that an activity/effect is to be prevented from occurring, a policy is open to be interpreted more broadly.~~

~~In summary, the 'protection' anticipated by Sections 6(a) and (b) is not an absolute protection: rather, it is protection from inappropriate subdivision, use and development. Identifying what is inappropriate is informed through other policies of the MEP.~~

Comment [N5]:
This is incorrect. The word 'protect' cannot be interpreted in a number of ways. As the PMEP identifies 'protect' means to *"keep safe from harm, injury or damage"* (***Forest & Bird v New Plymouth District Council*** at [63]). The only gloss that is appropriate is that "*adequate protection is required"* (Ibid). What changes is how protection is achieved. This is contextual. It is determined by what is sought to be protected and from what (***EDS v King Salmon***).

ANNEXURE 2.C

EDS reasons and relief in comment boxes and/or track-changes.
EDS also seeks any consequential relief, including to the PMEP rules, necessary to respond to the issues raised and give effect to the changes sought.
Provisions not specifically commented on are supported (subject to the changes sought).
Referenced cases:
Environmental Defence Society Inc v New Zealand King Salmon Co Ltd [2014] NZSC 38.
Hon Simon Upton, ***Resource Management Bill: Third Reading***, New Zealand Parliamentary Debate, 4 July 1991, 3018-3020.
The Stace Hammond Grace Lecture: Purpose and Principles in the Resource Management Act, Hon Simon Upton, Waikato Law Review, Vol 3, pg.17-55, at pg. 42.

4. Use of Natural and Physical Resources

Introduction

Marlborough's tangata whenua iwi and early settlers flourished in the Marlborough environment through use of the district's natural resources. Indigenous forests, wetlands, rivers and the sea were all larders for tangata whenua. From the 1850s, Pakeha settlers cleared forests to extract timber and convert land to pasture. The subsequent agricultural use of the land relied on the quality of the soil resource. As Marlborough grew and developed, the community constructed physical resources to support their economic endeavour and improve quality of life. Today and in the future, the social and economic wellbeing, health and safety of Marlborough still relies on the use of our natural and physical resources.

Section 5 of the Resource Management Act 1991 (RMA) recognises that sustainable management includes the use and development of natural and physical resources to provide for the social and economic wellbeing, health and safety of the community. This chapter contains provisions that acknowledge the importance of using and developing our land, water, coastal and air resources and strategic infrastructure in this respect. The objectives and policies provide high level direction on resource use in our environment. This direction is developed further within the resource or activity-based chapters elsewhere in the Marlborough Environment Plan (MEP). Specific provisions within those chapters seek to enable appropriate use and development of natural and physical resources.

Provisions are also included on the use and development of natural and physical resources in the Marlborough Sounds. This is because the Marlborough Sounds is highly valued by the community and by visitors to the district. Provisions have been included to guide resource use to ensure that we can continue to enjoy the unique and iconic Marlborough Sounds environment on an ongoing basis.

The use and development of land, water, coastal and air resources and strategic infrastructure can adversely affect the resource and/or the surrounding environment. The management of these adverse effects is specifically addressed through the resource or activity-based chapters of the MEP.

Issue 4A – Marlborough's social and economic wellbeing relies on the use of its natural resources.

The prosperity of Marlborough has always relied upon utilising and developing the natural resources in the surrounding environment. Historically, the primary sector has driven the local economy. Today, that same sector still contributes over 35 percent of the local economy and employs the equivalent of over 7,000 people on a permanent basis.

The industries that make up the primary sector - agriculture, viticulture, horticulture, forestry, fishing and marine farming - are successful because of the environment within which they occur. The availability of suitable land and coastal resources has allowed these industries to prosper and grow. Marlborough's freshwater resources have been vital to the productivity of some industries within the primary sector, combating dry conditions through irrigation and assisting with the processing of crops. Irrigation and good quality soils on the Wairau Plain have both created opportunities for landowners to diversify their activities.

Generally, Marlborough has adequate natural resources of sufficient quality to meet the needs of the primary sector. However, the reliance on natural resources also creates an inherent

vulnerability to environmental change. The loss of access to natural resources or a reduction in the quality of the resources would have a significant impact on the primary sector. The implications would be felt far beyond the farm gate or vineyard, as Marlborough's townships act as service centres to rural land uses and the marine farming industry. Many businesses in Blenheim and other townships are sustained, either directly or indirectly, by the primary sector.

Natural resources are also important to the social and economic wellbeing of the remainder of the community. The Marlborough Sounds, Richmond Range, the dry Southern Hills and interior and the east coast all provide refuge habitat for indigenous flora and fauna, sustaining most of Marlborough's remaining terrestrial, aquatic and marine biodiversity. These same environments provide us with important recreational opportunities to experience the outdoors. The intrinsic and amenity value of our environment attracts visitors to the district, sustaining a significant tourism industry. Any reduction in the quality of the environment will have the potential to adversely affect the tourism industry.

The value of the conservation estate, which makes up 45 percent of Marlborough's land area, should not be underestimated. For example, the use of the Queen Charlotte Track, part of which occurs in the conservation estate, adds approximately $10 million to the Marlborough economy annually. There are other ecosystem services provided by the conservation estate that, although not quantified in a monetary sense, contribute to social wellbeing, such as reducing flood risk, sustaining whitebait catches and other fish and game.

[RPS]

Objective 4.1 – Marlborough's primary production sector and tourism sector continue to be successful and thrive whilst ensuring the sustainability of natural resources.

The Marlborough economy has historically been based on its primary industries and the processing of product from these industries. Agriculture, horticulture, viticulture, forestry and fishing continue to contribute significantly to our economy and therefore our economic wellbeing. For this reason, it is important that the primary sector, as well as related servicing and processing industries, continue to thrive.

A number of factors determine the viability and prosperity of the primary sector. Significant factors include market conditions and the exchange rate. These determine the demand for, and price of, the finished product. However, the Council also plays an important role in this context by allocating public resources, removing unnecessary barriers to resource use and enabling appropriate adaptation to climate change.

Primary industries rely on access to and the use of natural resources. Agriculture, horticulture, viticulture and forestry are all influenced by the availability of land and, to various extents, the characteristics and quality of the soil resource. Given Marlborough's dry climate, reliable supplies of freshwater for irrigation provide land use options for rural resource users. Freshwater is also used for the processing of crops. Our economic wellbeing therefore depends on the ability to continue to access and utilise natural resources in the Marlborough environment. However, the ability to use these resources does come with responsibilities. These responsibilities are reflected in policies elsewhere in the MEP.

Our natural environment is a significant attraction for domestic and international tourists and contributes significantly to the Marlborough economy. The development of a successful tourism sector in Marlborough has diversified the local economy and created greater resilience to changes in market conditions. It is therefore important that the tourism sector continues to be successful. The Council can play a role in this by striving to maintain and enhance the quality of our environment.

[RPS]

Policy 4.1.1 – Recognise the rights of resource users by only intervening in the use of land to protect the environment and wider public interests in the environment.

With land ownership comes an expectation of the ability to reasonably develop and use the land. In a property owning democracy such as New Zealand, it is fundamental that the reasonable rights and expectations of private property owners are respected. This is reflected in Section 9 of the RMA, which enables people to use or develop land.

Notwithstanding these property rights, the Council can constrain such land use through rules in a regional or district plan. The Council can intervene in the exercise of private property rights to protect the environment and wider public interests in the environment. Even in these situations, the Council will seek to minimise the extent of regulation placed upon resource users. Generally speaking, resource users have a vested interest in sustaining the natural resources from which they extract an income. The Council can influence and guide the way in which resource use is undertaken by establishing clear and concise standards.

It is important to acknowledge that existing uses of land can continue under Section 10 of the RMA irrespective of the introduction of district rules to constrain the use. For this to apply, the use must be lawfully established and its effects must be the same or similar to those that existed prior to the introduction of the rule.

At times it may be necessary for wider public interest considerations to prevail over individual expectations and land use may need to be controlled. In these circumstances, compensation to the land user is not payable under Section 85 of the RMA. The same section also provides the land user with the ability to challenge any provision of a plan on the grounds that the provision would render their land incapable of reasonable use. Section 86 of the RMA empowers the Council to acquire land with the agreement of the landowner and pay compensation for it.

[RPS]

Policy 4.1.2 – Enable sustainable use of natural resources in the Marlborough environment.

Many uses of coastal space, river beds, air and water resources are prohibited unless allowed by a rule in a regional plan or by resource consent (see Sections 12 to 15 of the RMA). As a principle, the Council will continue to enable access to natural resources where the subsequent use of those resources has no more than minor adverse effect on the immediate or surrounding environment. This will be achieved through the use of permitted activity rules, including conditions where appropriate, avoiding the need for resource consent. Where the adverse effects are considered more than minor or where there is potential for cumulative effects, then resource consents will be required. Policies throughout the MEP help define sustainable resource use.

The use of allocation frameworks for coastal space and freshwater will also assist to enable the sustainable use and development of these natural resources. These frameworks will provide certainty about the quantities and/or locations of resources available and the circumstances in which they may be used and developed.

[RPS]

Policy 4.1.3 – Maintain and enhance the quality of natural resources.

The productive use of natural resources can rely on the quality of those resources. A comprehensive suite of policies is included in the MEP to assist in sustaining soil, air, water and coastal resources. This will assist the primary sector to continue contributing significantly to the Marlborough economy and the wellbeing of our communities.

With a favourable climate and a diverse and attractive environment, Marlborough is a desirable place in which to work, live and holiday. Maintaining and enhancing the quality of our natural resources will ensure that Blenheim and other townships and small settlements continue to attract new residents which, in turn, enables growth and development. It will also ensure that the natural

environment continues to attract the domestic and international tourists that sustain a valuable tourism sector.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[C, R, D]

4.M.1 Zoning

Zoning, in combination with district rules, will be used to enable primary production to occur within rural environments.

[D]

4.M.2 District rules

Controls on land use will be used to determine appropriate land management practices or when intervention is required to protect natural resources and the surrounding environment.

[C, R]

4.M.3 Regional rules

Permitted activity rules will be used to enable appropriate use of natural resources, including fresh and coastal water, river beds, air, coastal space and land resources, when the use will have no more than minor effects on natural resources and the surrounding environment. Other rules will also enable resource use, but will require a consideration of environmental effects through the resource consent process.

Regional rules will be used to implement allocation frameworks, including allocation limits. In some cases or in some locations, this may extend to having prohibited activity rules in order to maintain the integrity of the allocation framework or protect the quality of natural resources.

[RPS, C, R, D]

4.M.4 Guidelines

The Council will make extensive use of guidelines to assist resource users to carry out their activities according to best practice for environmental outcomes. Guidelines will be developed in consultation with resource users and groups that represent their interests. The Council will rely on resource user groups to implement the guidelines.

[RPS, C, R, D]

4.M.5 Information

Information will be made available on the nature, extent and state of soil, water and air resources to assist resource users to make informed decisions about resource use. This information will also be considered by the Council in determining whether there is a need to review regional and district rules and allocation frameworks.

Issue 4B – The social and economic wellbeing, health and safety of the Marlborough community are at risk if community infrastructure is not able to operate efficiently, effectively and safely.

We rely on a range of physical resources to allow our communities function on a day-by-day basis. These resources include the water, stormwater and waste disposal services provided to townships and small settlements; the transport links within Marlborough and connecting Marlborough to the remainder of the country; the provision of electricity and telecommunications; and, on the Lower Wairau Plain, the drainage of land. Collectively, this infrastructure is regionally significant due to the contribution it makes to our social and economic wellbeing, health and safety. Other infrastructure in (e.g. RNZAF Base Woodbourne) or running through Marlborough (e.g. the National Grid and state highways) also has national importance. It is important that this strategic infrastructure is able to operate efficiently, effectively and safely on an ongoing basis for community wellbeing. The ability to maintain, upgrade and replace existing infrastructure without significant constraint is important in this respect. Occasionally, new infrastructure may be required to provide for growth within the district.

Other activities can adversely affect the performance of existing infrastructure, especially those undertaken in close proximity to the infrastructure. The use and operation of some types of regionally significant infrastructure can, by their nature, create actual or potential effects for land uses located in close proximity to the infrastructure (e.g. odour, dust, glare, noise). This means that they are susceptible to reverse sensitivity effects: where the expectations of land uses, especially residential land uses, constrain the use and operation of regionally significant infrastructure or, in the case of the roading network, adversely affect its carrying capacity. Other land use activities may directly affect existing infrastructure. For example, planting trees under or in close proximity to electricity transmission lines creates a potential fire hazard and a risk that lines may be brought down during severe winds.

[RPS]

Objective 4.2 – Efficient, effective and safe operation of regionally significant infrastructure

The community relies on the considerable infrastructure that has been developed to protect and support the population. It is essential for the social and economic wellbeing, health and safety of the Marlborough community that this critical infrastructure continues to operate efficiently, effectively and safely on an ongoing basis. This includes the ability to maintain, upgrade and replace existing infrastructure.

[RPS]

Policy 4.2.1 – Recognise the social, economic, environmental, health and safety benefits from the following infrastructure, either existing or consented at the time the Marlborough Environment Plan became operative, as regionally significant:

- **(a) reticulated sewerage systems (including the pipe network, treatment plants and associated infrastructure) operated by the Marlborough District Council;**
- **(b) reticulated community stormwater networks;**
- **(c) reticulated community water supply networks and water treatment plants operated by the Marlborough District Council;**
- **(d) regional landfill, transfer stations and the resource recovery centre;**
- **(e) National Grid (the assets used or owned by Transpower NZ Limited);**
- **(f) local electricity supply network owned and operated by Marlborough Lines;**
- **(g) facilities for the generation of electricity, where the electricity generated is supplied to the National Grid or the local electricity supply network (including**

infrastructure for the transmission of the electricity into the National Grid or local electricity supply network);

(h) strategic telecommunications facilities, as defined in Section 5 of the Telecommunications Act 2001, and strategic radiocommunication facilities, as defined in Section 2(1) of the Radiocommunications Act 1989;

(i) Blenheim, Omaka and Koromiko Airports;

(j) main trunk railway line;

(k) district roading network;

(l) Port of Picton and Havelock Harbour;

(m) Picton, Waikawa and Havelock marinas;

(n) RNZAF Base at Woodbourne; and

(o) Council administered flood defences and the drainage network on the Lower Wairau Plain.

The policy identifies infrastructure considered regionally significant due to its contribution to the social and economic wellbeing or health and safety of a large proportion of Marlborough's population, or because of its strategic importance nationally. These benefits will be taken into account when developing district and regional rules and when considering resource consent applications, notices of requirement and plan change requests. This policy recognises the significance of the infrastructure existing or consented at the time that the MEP becomes operative.

[RPS]

Policy 4.2.2 – Protect regionally significant infrastructure from the adverse effects of other activities.

The effective and efficient operation of regionally significant infrastructure can be protected by avoiding the establishment of incompatible activities in close proximity to the infrastructure in the first place. This policy recognises that there has already been significant investment in the infrastructure and that there are usually considerable difficulties relocating the infrastructure in the event of conflict with other land uses. In respect of the electricity transmission network, it is a requirement of the National Policy Statement on Electricity Transmission (NPSET) for decision makers to manage activities to avoid reverse sensitivity effects on the network as much as possible.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[D]

4.M.6 Identification

The electricity transmission network will be identified on the planning maps. This will allow other methods to be applied to manage the adverse effects of third parties on the transmission network.

[D]

4.M.7 Zoning

Recognition will be given to regionally significant infrastructure by providing, where appropriate, explicit zoning for the infrastructure. In conjunction with the application of district rules, zoning will assist to enable the infrastructure to operate efficiently and effectively.

[D]

4.M.8 Designations

Encourage requiring authorities (as defined by Section 166 of the RMA) to utilise designations as an effective means of identifying and protecting regionally significant infrastructure. Designations can then be explicitly included in the MEP.

[C, R, D]

4.M.9 District and regional rules

Rules will be used to enable activities associated with the maintenance, alteration, minor upgrading and replacement of regionally significant infrastructure. Standards will specify the extent of works involved with any of these activities.

Rules will be used to control the proximity of land uses in river beds that could have adverse effects on regionally significant infrastructure. This includes development within the National Grid corridor.

A buffer corridor for the National Grid transmission lines will be established through rules within which activities will be managed to reduce the risk of electrical hazard, the potential for reverse sensitivity effects and adverse effects on the structural integrity of the National Grid. The width of the corridor will vary depending on the activity, type of National Grid asset and the sensitivity of the network to the activity. This method gives effect to Policy 11 of the NPSET.

In addition to the rules in the MEP, the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 establishes various classes of activity for certain activities relating to existing transmission lines.

[C, R, D]

4.M.10 Affected party status

Where the grant of a resource consent application may adversely affect regionally significant infrastructure, the owners and operators of the infrastructure will be served notice of the application as an affected party. Transpower NZ is required to be served notice if a resource consent application may affect the National Grid under Regulation 10 of the Resource Management (Forms, Fees and Procedures) Regulations 2003.

Issue 4C – The use and development of natural and physical resources in the Marlborough Sounds has the potential to detract from the character and intrinsic values of this unique and iconic environment.

The unique Marlborough Sounds are located between Tasman Bay in the west, the often rough and wild Cook Strait to the north-east, and the exposed to open ocean conditions along its south-eastern flank. The drowning of river valleys in geological time has created 1,500 kilometres of indented coastline - a labyrinth of enclosed and relatively sheltered waters within Port Underwood, Queen Charlotte Sound, Pelorus Sound, Tennyson Inlet, Croiselles Harbour and around D'Urville Island. In contrast to the coastal waters, the Marlborough Sounds' landform is rugged, sloping steeply away from the shoreline to prominent spurs and ridges on the skyline. Bays, coves, beaches, inlets, peninsulas, headlands and cliffs all mark the point where land and water meet. This unique position, combined with variation in geology, soils, topography, temperature, tidal range and currents, creates diversity in both the character and ecology of the Marlborough Sounds.

The bush, streams and coastal waters provide habitat to indigenous plant and animal life. Native plants range from sub-tropical to sub-alpine. Some of the rarest animal and insect life in the world

Comment [N1]:
Chapter 4 does not identify that use and development should only occur within the capacity of the environment/within environmental limits. It should.

As discussed in Chapter 2, the RMA was intended to install a regulatory regime to establish non-negotiable environmental bottom lines set to provide for development within the capacity of the environment and the ecosystems that supported. Those lines are set at the highest level in s5 RMA, and given substance in s6 and in national planning instruments. Beyond those bottom lines resource users would be left to make their own decisions with limited restrictions. Through establishing clear and consistent bottom lines the RMA was intended to achieve better environmental outcomes with few restrictions on use and development. (See references above). The PMEP should set environmental bottom lines in the regional context.

can be found in the Marlborough Sounds, including tuatara, the Maud Island and Hamilton frogs and the Cook Strait giant weta. The pest free islands (e.g. Maud Island, Stephens Island, Titi Island and Motuara Island) are of particular significance, as they act as a refuge for threatened indigenous species. There is also a marine reserve around Long island.

The Marlborough Sounds are also interesting because of the wide range of activities that have occurred there in the past or are undertaken there today. The Marlborough Sounds have long been settled by Māori, possibly stretching back as far as 1,000 years. Many of Marlborough's tangata whenua iwi retain strong connections with the Marlborough Sounds and place great importance on their links to traditional sites, both on land and in the sea. The Marlborough Sounds were also a focal point for interaction between European and Māori cultures pre- and post-colonisation. European explorers, whalers, sealers and settlers all came to the Marlborough Sounds. In some ways, this settlement trend continues today as people are still choosing to move here.

Since the early days of interaction between the two cultures, the Marlborough Sounds' landscape and seascape have been extensively modified by human activity. The most obvious change was caused by the clearance of the original vegetation cover (predominantly bush) to allow for pastoral farming, followed in some areas by exotic forestry. Commercial fishing also had early beginnings, while the waters of Queen Charlotte Sound and Tory Channel have provided a vital transportation link between North and South Islands. A more recent trend has been the growth of the marine farming industry, with the establishment of over 570 farms around the Sounds. All of these activities continue today, although many pastoral farms have been left to revert to indigenous forest and shrub cover.

The combination of land and water also creates a stunning coastal environment that attracts people to live or holiday in the Marlborough Sounds, creating unique coastal communities in the process. This is reflected in the many houses and holiday homes adjacent to the foreshore.

The Marlborough Sounds are also a recreational playground, with many opportunities to tramp, cycle, swim, boat, sail, dive and fish. For those less actively inclined, there is also the ability to get away from it all and relax. Others choose to explore and experience the many different parts of the Marlborough Sounds by road or sea.

The use and development of natural and physical resources within the Marlborough Sounds creates the potential for environmental change. As noted above, the Marlborough Sounds is a dynamic environment and has a certain capacity to absorb change. However, there are visual, ecological and physical qualities that make a critical contribution to the character of the Marlborough Sounds. If these qualities are adversely affected by the use and development of natural and physical resources, this will adversely affect the way in which the community and visitors perceive and value the Marlborough Sounds.

[RPS]

Objective 4.3 – The maintenance and enhancement of the visual, ecological and physical qualities that contribute to the character of the Marlborough Sounds.

Objective 4.3.1 – Use and development occurs within the ability of the environment to sustain its life-supporting capacity

The Marlborough Sounds is a truly exceptional place – it is considered to be our "jewel in the crown" in terms of natural assets. The landscapes and seascapes within the Marlborough Sounds and the ecology and natural processes that occur within them are unique and highly valued. This objective seeks to maintain and enhance these qualities to ensure that the community and visitors to the district can continue to enjoy this environment now and into the future. This does not mean that use and development of natural and physical resources cannot occur within the Marlborough Sounds, but an element of precaution needs to be exercised to ensure that resource use is complimentary to the visual, ecological and physical qualities that give the Marlborough Sounds

its iconic character.

[RPS]

Policy 4.3.X – Set clear and non-derogable environmental limits for each resource that ensure use and development only occurs within the ability of the environment to sustain its life-supporting capacity.

Policy 4.3.1 – Integrate management of the natural and physical resources within the Marlborough Sounds environment.

There are very strong connections between land and marine environments in the Marlborough Sounds. This means that activities occurring in one locality can easily affect the surrounding environment and other activities occurring in that environment. This is especially true considering that the activities and values described in the issue and objective above are not always compatible. This makes integrated management of land and coastal water resources critical to retaining the special qualities of the Marlborough Sounds. As a unitary authority, the Council is well placed to achieve integrated management of natural and physical resources through its policy making and consenting functions. The policies in the MEP ensure that all of the effects of the use, development and protection of resources are identified and managed in a consistent manner.

[RPS]

Policy 4.3.2 – Identify the qualities and values that contribute to the unique and iconic character of the Marlborough Sounds and protect these from inappropriate subdivision, use and development.

In order to determine whether particular activities in the Marlborough Sounds will have significant adverse effects, it is necessary to identify the qualities and values that contribute to the unique and iconic character of the Marlborough Sounds. These qualities and values are identified in the objectives and policies of other chapters, where criteria to help define appropriate activities are provided. In some cases, these qualities and values are also mapped and/or scheduled in the MEP.

[RPS]

Policy 4.3.3 – Provide direction on the appropriateness of resource use activities in the Marlborough Sounds environment.

It is important that the MEP provides as much certainty as possible to resource users and the community about the outcomes anticipated under this suite of provisions. Following the identification of the qualities and values in accordance with Policy 4.3.2, this policy signals that direction will be provided on the sensitivity of these to change. This sensitivity will vary due to the different qualities and values in different parts of the Marlborough Sounds. Those activities more likely to have an impact on the Marlborough Sounds environment will be subjected to resource consent processes. This will allow an assessment of the nature and significance of the effects of any proposed activity on the immediate and surrounding environment (including cumulative effects). The policies in the MEP will assist that assessment.

[RPS]

Policy 4.3.4 – Enhance the qualities and values that contribute to the unique and iconic character of the Marlborough Sounds.

Objective 4.3 seeks to maintain and enhance the Marlborough Sounds environment. This means that the Council can manage the use, development and protection of natural resources to enhance the qualities and values that contribute to the character of the Marlborough Sounds. This can occur through regulatory methods. For example, environmental enhancement may be a means of remedying or mitigating the adverse effects of resource use and development. Resource consent applicants and the Council should have regard to these opportunities when preparing or processing resource consent applications. Other opportunities may exist beyond the use and development of natural resources. The implementation of non-regulatory methods to enhance particular parts of the Marlborough Sounds environment, particularly the landscape and biodiversity, will make significant contributions in this regard. These non-regulatory methods are signalled throughout the MEP.

[RPS]

Policy 4.3.5 – Recognise that the Marlborough Sounds is a dynamic environment.

As described in the issue above, the Marlborough Sounds has already undergone considerable change as a result of the past use of natural and physical resources, the most dramatic possibly being the clearance of indigenous vegetation to allow agriculture to occur and, as agriculture has become economically marginal, the regeneration of indigenous vegetation. As a principle, it is important to recognise that the Marlborough Sounds environment is dynamic and will continue to change with or without human intervention. This means there is a capacity to absorb change within the environment without necessarily affecting the qualities of this unique and iconic environment. Indeed, some changes may actually enhance the qualities and improve the Marlborough Sounds environment. Regard should be had to this policy when considering new and existing activities involving the use, development and protection of the Marlborough Sounds environment.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[RPS]

4.M.11 The policies above, particularly Policies 4.3.2, 4.3.3 and 4.3.4, are implemented through other policies throughout the MEP.

Anticipated environmental results and monitoring effectiveness

The following table identifies only one anticipated environmental result for this chapter, which is a high level anticipated environmental result. Although there are indicators listed in 4.AER.1 to monitor overall effectiveness, it is important that regard is had to the anticipated environmental results in other chapters to help determine if the provisions of this chapter are being effective. The anticipated environmental results are ten year targets from the date that the MEP becomes operative, unless otherwise specified.

Anticipated environmental result	Monitoring effectiveness
4.AER.1 People and communities have appropriate access to natural and physical resources in the Marlborough environment in order to provide for their social, economic and cultural wellbeing and health and safety.	The primary sector contributes over 15% of Marlborough GDP. The number of visitors to Marlborough exceeds 1.5 million per annum. Regionally significant infrastructure continues to operate effectively and without disruption from other activities. Public perception survey indicates that a majority of residents and ratepayers believe that the Marlborough Sounds environment is in good health.

EDS reasons and relief in comment boxes and/or track-changes.
EDS also seeks any consequential relief, including to the PMEP rules, necessary to respond to the issues raised and give effect to the changes sought.
Provisions not specifically commented on are supported (subject to the changes sought).

5. Allocation of Public Resources

Introduction

Much of the Council's resource management work involves managing resources that are in the public domain. Marlborough has a considerable coastline, large areas of land in Crown ownership and extensive freshwater resources. The Council frequently allocates or authorises the use of these natural resources for private benefit, especially resources in the coastal marine area, rivers, riverbeds and aquifers.

Allocating rights to use public resources has become a fundamental part of the overall fabric of Marlborough's social and economic wellbeing. For example, our viticulture industry, which contributes significantly to Marlborough's economy, relies on access to freshwater resources from rivers and aquifers. Other examples include the many moorings, boatsheds and jetties throughout the Sounds, all of which contribute to the social wellbeing of residents and holidaymakers.

The importance of the community and visitors being able to continue to use and develop these natural resources within the constraints of the Resource Management Act 1991 (RMA) cannot be underestimated. Any significant reduction or change in approach to resource use could have significant implications for Marlborough's economic, cultural and social wellbeing. The two main areas where allocation of public resources is considered to be an issue are rights to occupy space in the coastal marine area, and rights to take and use freshwater.

Comment [N1]:
The introduction fails to identify that allocation of natural resources for use should only occur above non-derogable environmental bottom lines set to safeguard the life-supporting capacity of the resource in question. The introduction should be amended to include this and to better reflect s5 RMA and, in the case of freshwater, to reflect Objective B1 NPSFM.

Issue 5A – The diversity of water resources makes it difficult to achieve uniformity in water allocation and water use management regimes across the District.

Marlborough's geology, topography, land cover and climate vary dramatically across the district. This results in a diverse array of rivers and aquifers, evident in the size of catchments/aquifers, the length of rivers through the catchment, the spatial extent and depth of aquifers, the flow of water through the river/aquifer, water availability (and variation in water availability) and the natural and human use values that the waterbodies support. Although the objectives of the Marlborough Environment Plan (MEP) establish consistent objectives across all water resources, the means to achieve these outcomes will necessarily differ due to the above variation. It is therefore difficult to achieve consistent approaches to managing water resources across Marlborough. The lack of consistency can create frustration, especially for water users who access water from more than one water resource.

[RPS]

Objective 5.1 – Water allocation and water use management regimes reflect hydrological and environmental conditions within each water resource.

If the management applied to the taking and use of water does not reflect the hydrological and environmental conditions that exist in each water resource, one of two things may happen: water users could be unnecessarily restricted in taking or using that water, or taking and use of water may result in adverse effects on the natural and human use values supported by the freshwater resource. These are inappropriate outcomes given the value of water in terms of its contribution to social, economic and cultural wellbeing and its life-supporting capacity. It is therefore essential that the management applied to any water resource is fit for purpose in order to achieve sustainable outcomes.

[RPS, R]

Policy 5.1.1 – Define and use freshwater management units to apply appropriate management to the taking and use of water within each water resource.

To ensure that the management applied to the taking and use of water is appropriate to the hydrological and environmental circumstances, it is necessary to distinguish between the different catchments and aquifers that exist in Marlborough. The Council will achieve this by identifying Freshwater Management Units (FMUs), which will be based on the hydrological characteristics of each water resource and the natural and human use values supported by the waterbody/bodies. These freshwater management units are identified in the MEP. This approach also gives effect to the National Objectives Framework of the National Policy Statement Freshwater Management 2014 (NPSFM), which requires the Council to identify freshwater management units.

Comment [N2]:
This policy is supported to the extent that it reflects the requirements of the NPSFM to establish freshwater management units.

However, further clarification is required around the application and differences of freshwater management units when compared with the water resource units contained in Appendix 5.

[RPS, R]

Policy 5.1.2 – Recognise that the taking of water and the use of water are two distinct activities and where resource consent application is to be granted, separate water permits for each activity will be granted.

Most water taken from rivers or aquifers involves a subsequent consumptive use of that water, predominantly for irrigation of crops. Section 14 of the RMA treats the subsequent use of water as a distinct activity to the taking of the water in the first place. This is because the two activities have different potential adverse effects on the surrounding environment. The adverse effects of taking water tend to relate to the direct or indirect effects on the natural and human use values supported by the waterbody from which the water has been taken and on other people taking water from that resource. The efficiency of water use is a relevant consideration for the use of water, especially as the resource from which the water has been taken approaches full allocation. In these circumstances, inefficient water use could potentially deprive other users from accessing the water resource. This policy records that the Council will require applications for water permits to authorise the taking of water and the use of water separately. The distinct adverse effects of each of the activities will be managed through the separate applications.

Issue 5B – The taking, damming or diversion of water can compromise the life-supporting capacity of rivers, lakes, aquifers and wetlands.

Marlborough's freshwater bodies sustain a diverse range of natural and human use values. These values include the cultural and spiritual values of Marlborough's tangata whenua iwi; opportunities for passive and active recreation; the provision of habitat for indigenous flora and fauna, trout and salmon; a contribution to Marlborough's distinctive landscape and natural character; and the provision of a source of drinking water. In summary, the water that flows in rivers or that is contained in aquifers, lakes and wetlands sustains Marlborough's community and environment.

Marlborough's freshwater bodies are also utilised as an important source of water for a range of uses, including irrigation, industrial, commercial and frost fighting. This water use relies on the taking, damming and/or diversion of water. These activities all have the potential to change the characteristics of the flow or level of water in the waterbody. The taking of water removes water from the river, aquifer, lake or wetland, reducing flow or level. The diversion of water out of a river, and associated riverbed modifications, changes the natural flow pattern and can also reduce flow or level. The damming of water retains water behind the dam structure potentially changing the character of the waterbody upstream and downstream of the dam structure.

Although natural and human use values have some resilience to natural changes in water flow and/or level, the taking, damming and diversion of water have the potential to significantly change the flow or level characteristics of waterbodies. Such changes can adversely affect the natural and human use values that rely on the water in the waterbody. Those effects could be as a result of one person's activity or the cumulative effect of multiple water users. The effects could be

experienced in the short-term but also have the potential to become permanent, for example where there is a loss of habitat.

Any loss of natural and human use values, either short-term or long-term, will have an impact on the community and the intrinsic values of the environment.

[RPS, R]

Objective 5.2 – Safeguard the life-supporting capacity of freshwater resources by retaining sufficient flows and/or levels for the natural and human use values supported by waterbodies.

The natural and human use values supported by Marlborough's freshwater bodies are important to retain given their contribution to the social, economic and cultural wellbeing of the community. In addition, the values can also have significance as a matter of national importance under Section 6 of the RMA, which must be recognised and provided for. Objective B1 of the NPSFM also requires the life-supporting capacity, ecosystem processes and indigenous species to be safeguarded. Objective 5.2 reflects the need to safeguard the life-supporting capacity of Marlborough's freshwater bodies when managing the taking, damming or diversion of water.

Natural and human use values

[RPS, R]

Policy 5.2.1 – Maintain or enhance the natural and human use values supported by freshwater bodies.

The natural and human use values supported by freshwater bodies in Marlborough are varied, reflecting the diversity of water resources highlighted in Policy 5.1.1. The natural and human use values supported by different waterbodies are identified in Appendix 5. Given their intrinsic value and their significance to the community, the policy seeks to retain the natural and human use values.

The development of allocation frameworks contained in the provisions of this chapter has taken into account Objective 5.2 and this policy. The environmental limits established through subsequent policies are intended to retain sufficient flow and/or level to maintain or enhance the natural and human use values of specific freshwater bodies. Maintaining or enhancing natural and human use values were also a relevant consideration in determining the circumstances under which the taking of water could occur without resource consent.

Some proposals to take, dam or divert water can involve site specific adverse effects on natural and human use values. This policy allows those potential adverse effects to be considered in the determination any application for resource consent to take, dam or divert water.

[RPS, R]

Policy 5.2.2 – Give priority to protecting the mauri of freshwater and freshwater flows/levels.

Mauri is the term used by Marlborough's tangata whenua iwi to describe the cultural concept that all natural resources have a lifeforce. This lifeforce (wairua) is derived from the physical attributes of the resource as well as the spiritual association iwi have with natural resources. Water is considered to be particularly significant to iwi in this regard as it sustains all life. Papā-tū-ā-nuku (Mother Earth) supports all people, flora and fauna, and waterbodies represent the blood vessels that supply nourishment to her, and through her, to all living things.

Marlborough's tangata whenua iwi feel that there is a lack of understanding in the community and by decision makers that water has wairua. It is their view that land and water are therefore used and managed in ways that do not recognise the spiritual significance of the resource. As a result, the taking, damming or diversion of water can adversely affect the mauri of water. Of particular concern is the impact of reduced flow on the ability of each iwi to support traditional uses and values. Given the whakapapa link between Māori and water, the flows/levels in waterbodies are a

Comment [N3]: It is not clear where the natural and human use values of the 'freshwater bodies' are identified and how this relates to either FMUs or water resource units. The PMEP provides for identification and management of both but only identifies values for water resource units.

Amend as required to provide clarity and consistency as to which water unit classification this policy relates and how the different unit types inter-relate. This clarification is required through out the PMEP.

reflection of the health of the tangata whenua. Marlborough's tangata whenua iwi wish to avoid making any waterbody waimate (where water flow/level becomes so degraded that it loses its mauri).

Regard was had to protecting the mauri of freshwater and freshwater bodies when establishing the allocation frameworks and permitted activity rules contained in the provisions of this chapter.

[R]

Policy 5.2.3 – Protect the significant values of specifically identified freshwater bodies by classifying the taking, damming or diversion of water in these waterbodies as a prohibited activity.

There are freshwater bodies in Marlborough that are in an unmodified state or a state close to unmodified. These water bodies retain high or very high natural character. In these circumstances, it is considered appropriate to preserve the natural character by preventing the taking, damming or diversion of water. This is reflected in regional rules that prohibit specific activities in these waterbodies that have significant values.

Comment [N4]: The intent of this policy, which is analogous to Ob b4 NPSFM, is supported. However again there is a lack of clarity as to which freshwater bodies it applies.

Amend as required to ensure clarity of application and consistency of language.

Setting of environmental limits

[R]

Policy 5.2.4 – Set specific environmental flows and/or levels for Freshwater Management Units dominated by rivers, lakes and wetlands to:

- **(a) protect the mauri of the waterbody;**
- **(b) protect instream and riperian habitat and ecology;**
- **(c) maintain or enhance fish passage and fish spawning grounds;**
- **(d) preserve the natural character of the river;**
- **(e) maintain water quality or enhance it to meet freshwater quality limits;**
- **(f) provide for adequate groundwater recharge where the river is physically connected to an aquifer or groundwater; and**
- **(g) maintain or enhance amenity values.**

Policy B1 of the NPSFM requires the Council to set environmental flows and/or levels for all FMUs. An environmental flow or level includes an allocation limit and a minimum flow or level. This is a complex task given the diversity in the natural and human use values supported by rivers, lakes and wetlands and the variation in the flow/level required to maintain those values. This policy sets out the matters that have been considered in the process of setting the environmental flows/levels established in the MEP. The environmental flows/levels are intended to provide sufficient water to sustain the matters identified in (a) to (g).

Comment [N5]:
The factors identified are supported (subject to the amendments sought). However, there is a disconnect between the policy and the 'values' based approach in the NPSFM and the balance of the PMEP. It appears that a decision has been made that the factors identified are 'values' that apply to all FMUs/ water resource units and that specific values for each FMU are identified elsewhere. This needs to be clarified.

The policy should also state that flows and levels should also achieve the specific values of the FMU/ water resource unit.

Again, clarity is required as to the relationship between FMUs and water resources units and at which level 'values' have been identified and set in accordance with the NPSFM.

[R]

Policy 5.2.5 – With the exception of water taken for domestic needs or animal drinking water, ~~prevent~~ avoid the taking of water authorised by resource consent when flows and/or levels in a Freshwater Management Unit are at or below a management flow and/or level set as part of an environmental flow and/or level set in accordance with Policy 5.2.4.

Water users will not be able to continue taking water once in a Freshwater Management Unit flows and/or levels reach the management flows/levels established in the MEP. Any such abstraction would result in an adverse effect on the life-supporting capacity of the waterbody. The policy will be implemented by way of a condition(s) of resource consent.

Water taken for domestic needs or animal drinking water is exempt from the policy given the contribution they make to sustaining the community.

Comment [N6]:
The intent of this policy is supported. Prevent should be replaced with avoid for consistency with the RMA.

[R]

Policy 5.2.6 – For rivers, establish whether the flow has reached the management flows set in the Marlborough Environment Plan on ~~the basis of 24 hour averages (midnight to midnight)~~an instantaneous basis by way of a hydrological model..

This policy establishes the basis on which management flows for rivers will be administered. A 24 hour average evens out short-term fluctuations in river flow and represents a pragmatic time period. Any shorter period is not administratively efficient as water users could be required to cease abstraction multiple times within a day while the flow fluctuates above and below the relevant management flow. Midnight to midnight reflects a working day and the timing allows water users to make decisions for managing their operations on the following day.

[R]

Policy 5.2.7 – Where there is insufficient environmental data to establish the flow requirements of natural and human use values, use a default minimum flow of 80% of the seven day mean annual low flow for rivers with a mean flow greater than 5m³/s and 90% of the seven day mean annual low flow for rivers with a mean flow less than 5m³/s.

Policy B1 NPSFM requires the Council to set environmental flows for all FMUs, which includes minimum flows. The Council monitors flow in rivers from which there is a demand for water, but does not necessarily monitor flow in rivers from which there is no or little demand. In some cases, this means that there is insufficient hydrological information and other relevant environmental data to establish a specific minimum flow for the river. In these circumstances, a default has been applied to meet the requirements of the NPSFM. The relevant minimum flow in these circumstances will be applied as the management flow in a condition of resource consent.

[R]

~~**Policy 5.2.8 – Consider proposals to set a minimum flow for a river that varies from the default minimum flow established by Policy 5.2.7 on a case-by-case basis, including through the resource consent process. Policies 5.2.1 to 5.2.4 will be utilised to assist the determination of any such proposal.**~~

~~The default minimum flow set for rivers in accordance with Policy 5.2.7 may not provide adequate protection to the natural and human use values supported by a river or may unnecessarily constrain the taking of water from the river. This policy provides an opportunity for any person to provide the Council with specific information that may justify a higher or lower minimum flow. In these circumstances it is appropriate that Policies 5.2.1 to 5.2.4 are utilised to make this~~ judgement.

[R]

Policy 5.2.9 – When considering a water take application ~~Have regard to~~decision-makers must consider the adverse effects of the proposed instantaneous rate of take from any river, ~~except an ephemerally flowing river,~~ if that rate of take exceeds or is likely to exceed 5% of river flow at any time.

The minimum flows set for rivers manage the cumulative effects of taking water on natural and human use values. However, it remains possible for a take at a discrete location to have a significant adverse effect on flow immediately downstream of the point of abstraction. The risk is probably greatest in the upper part of a catchment due to lower flow that tends to occur in those reaches. This policy allows decision makers to have regard to the adverse effects of an individual take in certain circumstances irrespective of the minimum flows established in the MEP. The proposed rate of abstraction must be calculated to exceed 5% of the river flow at the point of abstraction. Flows in excess of this threshold are considered to have the potential to adversely affect natural and human use values. ~~The policy only applies if the river is perennially or intermittently flowing~~.

Comment [N7]: The use of 24-hour daily flow averaging to assess when irrigation restrictions are triggered is problematic due to fluctuations in flow, sometimes large, over a 24 hour period, due to natural variance, abstraction and/or hydro generation. This is particularly problematic during periods of low flow and when large volumes of water have been allocated for abstraction. Using a 24 hour average flow can enable abstractive use to manipulate flows substantially below the minimum for significant periods of time.
An instantaneous minimum flow can be implemented as a synthetic flow at particular points on the river through the adoption of a hydrological model that filters out the effect of fluctuating inputs into the mainstem Wairau from the Branch River hydro scheme, taking into account transit time, inputs from hgher catchment recorders, and the existing recorder. The rules for this model should be written into the MEP by way of an Appendix, to ensure clarity, transparency, and consistency for all users.

Comment [N8]: The policy is opposed. Under the NPSFM a minimum flow is a non-derogable limit which is set to achieve the values attributed to the waterbody which must include ecosystem health. The default limit acts as a safety net to ensure that in waterbodies where information is scares a flow limit is set that will ensure this is achieved. It is not appropriate to vary the limit through the consent process which could be processed without opportunity for public input. Any variation of limits should be undertaken via a plan change.

Comment [N9]: A requirement to "have regard to" something is weak and affords unjustified discretion in this instance. Stronger direction should be given to decision makers that the instantaneous rate must be considered. That consideration should extend to ephemeral streams. There is no clear reason for their exclusion .

[R]

Policy 5.2.10 – Have regard to the importance of flow connection to maintaining natural and human use values when considering resource consent applications to take water from intermittently flowing rivers, including:

(a) the timing and duration of that flow connection;

(b) the physical extent of any disconnection in flow; and

(c) any adverse effects on connected aquifers.

Even though some rivers do not have surface flow at all times, there may still be circumstances where the flow connection is important in maintaining natural and human use values. For example, flow at a critical time of year may be important to facilitate the migration of indigenous fish, trout or salmon upstream or downstream. The policy allows the importance of flow connection to be considered when determining a resource consent application to take water from an intermittently flowing water body. The matters set out in (a) to (c) are those that are relevant to this consideration. Matters (a) and (b) relate to changes in the temporal and spatial extent of any disconnection, while matter (c) recognises that the intermittent flow may recharge connected aquifers. The changes created by the taking of water in this regard must be considered in light of any adverse effect on natural and human use values.

[R]

Policy 5.2.11 – Set specific minimum levels for Freshwater Management Units dominated by aquifers to:

(a) prevent physical damage to the structure of the aquifer;

(b) prevent headwater recession of spring flows;

(c) prevent a landward shift in the seawater/freshwater interface and the potential for saltwater contamination of the aquifer;

(d) maintain natural and human use values of rivers and wetlands where groundwater is physically connected and contributes significantly to flow in the surface waterbody;

(e) maintain groundwater quality; and

(f) prevent long-term decline in aquifer levels that compromises the matters set out in (a) to (e).

Policy B1 of the NPSFM requires the Council to set environmental levels for all FMUs, including minimum levels. This is a complex task for aquifers given the range of factors that influence rates of aquifer recharge and the difficulties determining the effect of abstraction on groundwater levels. This includes lags in response to either recharge and/or abstraction. This policy sets out the matters that have been considered in the process of setting the minimum levels in the MEP for FMUs dominated by aquifers. The minimum levels are intended to achieve the matters in (a) to (f) and therefore protect the sustainability of the FMUs in the long-term.

[R]

Policy 5.2.12 – Set conductivity limits for Freshwater Management Units dominated by aquifers adjoining the coast to manage the potential for saltwater contamination of the aquifer.

One of the potential effects of taking water from FMUs adjoining the coast is the potential within an aquifer to reduce water pressures at the interface between freshwater and salt water. Reduced pressures will result in a landward shift of the interface, creating the potential for salt water intrusion into the aquifer. Any salt water intrusion will adversely affect the ability to use the groundwater and is likely to result in long-term effects.

Conductivity is an indicative measure of the salt levels in groundwater. The setting of conductivity limits for FMUs adjoining the coast is intended to ensure the taking of water from aquifers does

not shift the interface. A warning system is also in place to detect signs of salt water intrusion. Limits will be imposed by way of conditions on resource consents, and due to the nature of the potential effects of abstraction in the coastal area, restrictions will be based on reducing actual water taken rather than that allocated through the resource consent.

Allocation of water

[R]

Policy 5.2.13 – Limit the total amount of water available to be taken from any freshwater management unit and avoid allocating water (through the resource consent process) beyond the limit set.

Policy B1 NPSFM requires the Council to set environmental flows and/or levels for all FMUs. These levels include an allocation limit, a limit on the total amount of water that can be allocated within any FMU. Policy 5.2.13 gives effect to Policy B1 of the NPSFM by establishing allocation limits for each FMU through regional rules. For those water resources that have multiple allocation classes, an allocation limit is set for each class.

Policy B5 of the NPSFM specifies that the Council must not make decisions that will likely result in future over-allocation. This means that the Council cannot continue to allocate water once the cumulative level of allocation from a FMU reaches the allocation limit set in rules. For this reason, any further allocation of water from the FMU should be avoided (unless explicitly provided for in another allocation class).

Comment [N10]: The clarity of this policy would be improved if it was divided into 2 policies. The first requiring water allocation limits to be set for FMUs and explaining how. The second stating that over-allocation must be avoided. Again, clarity is required as to the relationship between FMUs, water resource units and the values identified in the PMEP. Amend as above.

[R]

Policy 5.2.14 – Where there is insufficient environmental data to establish an allocation limit for a river, use a default allocation limit of 50% of the seven day mean annual low flow for rivers with a mean flow greater than 5m³/s and 30% of the seven day mean annual low flow for rivers with a mean flow less than 5m³/s.

Policy B1 NPSFM requires the Council to set environmental flows for all FMUs, which includes allocation limits. The Council monitors flow in rivers from which there is a demand for water, but does not necessarily monitor flow in rivers from which there is no or little demand. In some cases, this means that there is insufficient hydrological information and other relevant environmental data to establish a specific allocation limit for the river. In these circumstances, a default has been applied to meet the requirements of the NPSFM. The relevant allocation limit in these circumstances will be applied as a condition of resource consent.

[R]

Policy 5.2.15 – Protect flow variability of rivers by using, where identified as necessary, a system of flow sharing that splits allocation of available water between instream and out- of-stream uses.

Comment [N11]: The policy should be amended to provide direction (for example through criteria) on when protection of flow variability is required. This will make the policy more clear and ensure consistency in assessment and application by decision-makers. This will make the policy more efficient and effective.

The establishment of environmental flows for rivers affords protection to natural and human use values by establishing the minimum flow requirements for those uses and values. In some circumstances, flow variability above the minimum flow may also be important to sustain the natural and human use values supported by the river. Where this is the case, a system of flow sharing is used to proportionally allocate the water above the minimum flow to both abstractive users and natural and human use values. In other words, a proportion of the water available within the allocation class can be abstracted, while a proportion must be left in the river. The water left in the river will ensure that the taking of water does not reduce river flow to the minimum for an extended period of time. The detail of the flow sharing is river specific and is reflected in the allocation limits and thresholds for taking water in each of the allocation classes.

[R]

Policy 5.2.16 – For resource consent takes from the Waihopai River, Awatere River and other rivers that utilise an upstream flow monitoring site, allocations for the taking of water will be reduced proportionally as flows fall in order to avoid any breach of an environmental flow.

When monitoring of river flow occurs downstream of abstraction of water from the river, the effect of abstraction on river flow can be measured. In the Waihopai FMU and Awatere FMU, the monitoring of river flow occurs predominantly upstream of abstraction due to the absence of suitable flow monitoring sites further downstream. The management flow that applies in each FMU is the flow measured at the monitoring site, corresponding to an equivalent minimum flow that gives effect to Policy 5.2.4 downstream of abstraction. (Monitoring of flow in the Waihopai and Awatere Rivers over many years has allowed the establishment of a robust relationship between flows at the flow monitoring sites and gauged flows at other locations.)

Taking into account the allocation limits, abstraction downstream of the flow monitoring site can result in the non-attainment of the minimum flow that is sought to be achieved downstream. For this reason, the policy requires a proportional reduction in the allocations made by resource consent and consequent rationing of abstraction.

[R]

Policy 5.2.17 – Implement water restrictions for water users serviced by municipal water supplies when the management flows/levels for the resource from which the water is taken are reached.

At times of water restriction it is important that all of the community respond to the vulnerability of water resources. The potential impacts on the natural and human use values of waterbodies can be heightened at times of low flow and/or water levels. While restrictions are imposed through conditions of consents on non-urban water users, it is also appropriate that urban water users accessing municipal water supplies take measures to reduce water usage during times of low flows and/or levels. This policy will be implemented by the Council's Assets and Services Department as managers of the District's municipal water supplies.

Diversion of water

[R]

Policy 5.2.18 – Require resource consent for the diversion of water to enable the potential adverse effects of the diversion to be considered.

The diversion of water from its natural course has the potential to adversely affect the natural and human use values supported by the waterbody and existing water users downstream of the diversion. At its worst, there may not be sufficient water downstream to sustain the values and uses. The nature, severity and significance of the potential adverse effects will be circumstantial and will depend on the nature of the waterbody and the type of diversion, as well as the natural and human use values and other uses currently supported downstream of the proposed diversion. To ensure that the potential adverse effects can be accurately identified and assessed, diversions of water will generally require resource consent. The specific circumstances of the proposed diversion can then be considered in the determination of any application for water permit.

[R]

Policy 5.2.19 – Have regard to the following matters in determining any resource consent application to divert water:

- **(a) the purpose of the diversion and any positive effects;**
- **(b) the volume or proportion of flow remaining in-channel and the duration of the diversion;**
- **(c) the effect of the diversion on environmental flows set for the waterbody;**
- **(d) the scale and method of diversion;**

(e) any adverse effects on natural and human use values identified in the Marlborough Environment Plan in the reach of the waterbody to be diverted;

(f) any adverse effects on permitted or authorised uses of water; and

(g) any adverse effects on the natural character of the waterbody, including but not restricted to flow patterns and channel shape, form and appearance.

The matters listed in (e) to (g) are the potential adverse effects created by the diversion of water. The nature, severity and significance of the potential adverse effects are influenced by the matters listed in (a) to (d). The consideration of the matters listed in the policy will allow a determination to be made as to whether the proposed diversion of water is sustainable.

Damming of water

[R]

Policy 5.2.20 – Where water is to be dammed to enable the storage of water, encourage the construction and use of "out-of-river" dams in preference to the construction and use of dams within the beds of perennially or intermittently flowing rivers.

The damming of water to store water is a key response to temporary and seasonal shortages of water for irrigation purposes. Stored water provides a reservoir that can be accessed when other supplies are constrained or restricted. The policies and methods under Objective 5.8 focus on the positive effects of storing water.

Storage can involve the interception of runoff by damming ephemeral water bodies, the damming of intermittently or permanently flowing water bodies or the placement of abstracted water in purpose-built reservoirs on land. Dams constructed on riverbeds create the potential for a range of adverse effects (see Policies 5.2.21 and 5.2.22 for more detail) that may not be created when water is placed in reservoirs on land. For this reason, the construction of reservoirs on land is preferred to dams within the bed of rivers. However, the policy does not prohibit the construction of dams within the bed of rivers: applications for resource consent can still be made and will be considered having regard to Policies 5.2.21 and 5.2.22. However, district rules will create an incentive to utilise "out-of-river" dams for any water storage proposal.

A decision maker may also utilise this policy to consider alternatives to the use of dams within the bed of rivers. The extent to which this consideration is necessary will also rely on the significance of the potential adverse effects of the damming of water as assessed under Policies 5.2.21 and 5.2.22.

[R]

Policy 5.2.21 – Ensure any new proposal to dam water within the bed of a river provides for:

(a) effective passage of fish where the migration of indigenous fish species, trout and salmon already occurs past the proposed dam site;

(b) sufficient flow and flow variability downstream of the dam structure to maintain:

(i) existing indigenous fish habitats and the habitats of trout and salmon; and

(ii) permitted or authorised uses of water; and

(iii) flushing flows below the dam;

(c) the natural character of any waterbody downstream of the dam structure; and

~~have regard to the matters in (a) to (c) when considering any resource consent application to continue damming water.~~

Where a dam is proposed to be constructed in the bed of a river in spite of Policy 5.2.19, the policy identifies three matters to be provided for as part of the proposal. It recognises that a dam structure can act as a barrier to fish passage, modify the flow pattern downstream of the dam

Comment [N12]: The final part of the policy is unnecessary and should be deleted. Every proposal will be required to consider this policy under s104 RMA.

structure and alter the natural character of the river (or other downstream waterbodies) as a result of flow modification. The nature and significance of the adverse effects created by the dam structure will vary depending on the proposed structure, and the nature of the river and the natural and human use values it supports. This policy allows these proposal and site specific factors to be taken into account.

This policy can also be applied to applications for resource consent to continue damming water (i.e. existing dams). Given the existing dam structure, there may be limits to the extent to which the matters in (a) to (c) can be provided for. For this reason, the policy direction is to have regard to the matters, rather than provide for them. However, opportunities to remedy or mitigate the existing adverse effects may exist and can be addressed via conditions imposed on the grant of the resource consent.

[R]

Policy 5.2.22 – In the determination of any resource consent application, have regard to the following effects of damming of water:

- **(a) the retention of sediment flows and any consequent adverse effect upstream or downstream of the dam structure;**
- **(b) changes in river bed levels and the effects of those changes;**
- **(c) any downstream effects of a breach in the dam wall;**
- **(d) interception of groundwater or groundwater recharge; and**
- **(e) interception of surface water runoff.**

In addition to the matters identified in Policy 5.2.21, there are a range of other potential adverse effects of damming water in the bed of a river or on land. These effects are identified in (a) to (e) of this policy. Regard will be had to these effects in determining a resource consent application to dam water.

Water shortage direction

[R]

Policy 5.2.23 – Where necessary, utilise water shortage directions to manage the adverse effects of serious temporary shortages of water on natural and human use values supported by the waterbody.

Section 329 of the RMA allows the Council to issue a notice to apportion, restrict or suspend the taking, use, damming or diversion of water to address a serious temporary shortage of water. The policy identifies that in addition to the management applied through other policies in this chapter, the Council will also consider the option of using a water shortage direction. The circumstances of the shortage will have to be sufficient to justify the additional apportionment, restriction or suspension over and above that already applied in the rules of the MEP.

Other

[R]

Policy 5.2.24 – Impose conditions on water permits to take water requiring users to reduce and cease the authorised take when specified flows and/or levels are reached.

Conditions will be imposed on the grant of new resource consents (whether to continue taking water or to take water for the first time) requiring abstraction to cease when limits set in the MEP are reached. The environmental flows and limits are established by rules in the MEP in accordance with Policies 5.2.4, 5.2.7 and 5.2.11.

[R]

Policy 5.2.25 – Where necessary, review the conditions of existing water permits authorising the taking of water within 24 months of the Marlborough Environment Plan (or

any subsequent plan changes) becoming operative to ensure that relevant environmental flows and levels are met.

For many water resources, environmental flows or levels will be established for the first time. In other cases, environmental flows or levels established in previous planning documents, or on an ad hoc basis through the resource consent process in the absence of such plan limits, have been modified upon review. Where the ongoing exercise of those water permits will result in the non-attainment of Objective 5.2 due to the absence of limits or due to adherence to previous limits, then it is appropriate to consider imposing the limits set by the MEP. This will be achieved by undertaking a review of resource consent conditions in accordance with Section 128(1)(b) of the RMA. Such reviews can only occur once the rules setting the environmental flows or levels become operative. The policy signals that the reviews will occur within a set time period after the operative date.

Plan changes subsequent to the MEP becoming operative may also introduce new limits or may modify existing limits. The policy can also apply in this situation once the plan change becomes operative.

Issue 5C – Marlborough's social and economic wellbeing relies on an adequate supply of freshwater.

Water is considered Marlborough's most important natural resource. Over time our communities have come to rely upon freshwater in the district's rivers, lakes, wetlands and aquifers. This freshwater, particularly from aquifers, is the source of the drinking water that sustains many of Marlborough's rural and urban communities and provides an essential contribution to health standards within those communities. Freshwater also critically supports primary production in Marlborough, particularly for irrigation of land and crops in our dry climate, and is heavily used for commercial and industrial purposes. The economic value of that water to Marlborough's economy was estimated at $1.1 billion in 2011, 77% of which was contributed through primary production. Reductions in the supply of water would therefore have significant implications for Marlborough's social and economic wellbeing.

[R]

Objective 5.3 – Enable access to reliable supplies of freshwater

For the reasons identified in Issue 5C, enabling access to freshwater in Marlborough's rivers, lakes, wetlands and aquifers is one of the Council's most important functions. A reliable and suitable water supply maintains community health standards and can result in significant improvements in primary production, commercial and industrial outputs. This objective is considered necessary in order to ensure Marlborough's social and economic vitality.

[R]

Policy 5.3.1 – To allocate water ~~:~~ in the following order of priority~~:~~

(a) to the waterbody in the quantum required to safeguard its life supporting capacity; then

~~(a)~~(b) other natural and human use values; then

~~(b)~~(c) aquifer recharge; then

~~(c)~~(d) domestic and stock water supply; then

~~(d)~~(e) municipal water supply; and then

~~(e)~~(f) all other takes of water.

This policy establishes a hierarchy of water uses. The hierarchy reflects the relative value or significance of the uses listed. The term "uses" is broad and extends beyond consumptive use to include intrinsic values, ecosystem services and hydrological functions. The relative priority between the different uses listed in (a) to (e) have been used as the basis for allocating

Comment [N13]:
The first allocation priority should be to the water body itself in the amount required for it to sustain its life supporting capacity. This is required under s5 RMA and the NPSFM. The remaining water, or allocable quantum, can then be allocated in accordance with the remaining identified values.

Again the relationship between FMUs, water resource units and the PMEP's identified values needs to be clarified.

Marlborough's freshwater resources. This does not mean that consumptive use is not valuable or significant, but the application of the policy ensures that critical uses are provided for as a priority.

Once those uses are provided for, water can then be made available for the consumptive uses listed in (c) to (e). The application of the policy does influence the reliability of water abstraction for consumptive use. Limits to protect the matters in (a) and (b) will be applied to consumptive water uses. However, those restrictions will be applied progressively, reflecting the relative priority of domestic and stock water supply, municipal water supply and other consumptive takes of water.

[R]

Policy 5.3.2 – Provide information to water users about the amount of water available for abstraction and the circumstances under which it is available.

The use of water involves users making investment decisions relating to the establishment, redevelopment, upgrading and maintenance of infrastructure required to take and use that water. It is therefore important that water users are provided with adequate information regarding the volume of water that is expected to be available for out-of-stream use, as this will influence those investment decisions. Rules will identify the volume of water available for consumptive uses in each freshwater management unit.

Equally important are the circumstances under which the water is available for taking. The application of Policies 5.2.4 to 5.2.11 will influence the reliability of the water supply. The consequent rules establishing environmental flows for rivers and levels for aquifers will prevent water from being taken in particular circumstances. It is anticipated that water users will utilise this information to make informed decisions on the level of risk they are prepared to adopt when making their respective investments.

The information provided to water users will be based upon historical river flow or aquifer level data. However, it is future rainfall that will determine the status of the river flow and aquifer levels, and therefore the availability of water for abstraction. Historical records provide a representation of the reliability of the water allocation but should not be treated as an accurate prediction due to natural variation in rainfall between seasons and within a season.

[R]

Policy 5.3.3 – Confirm and, where they have not previously been set, establish allocation volumes that reflect the safe yield from any Freshwater Management Unit over and above the management flows/levels set through the implementation of Policies 5.2.4 and 5.2.10.

The NPSFM requires the Council to set limits on the allocation of water. Previous planning instruments had established allocation limits for particular rivers and aquifers to ensure the sustainability of the water resource, protect the natural and human use values that the water resource sustains and maintain the reliability of supply for existing water users. These limits have been reviewed and, where appropriate, reconfirmed. Other water resources have not previously had allocation limits and these have now been set. Rules prevent the allocation of water beyond these limits.

For some rivers, two allocation classes are provided for, referred to as Class A and Class B. In many cases, the two classes are carried over from previous planning instruments. Class A water permits have a greater inherent reliability, due to their lower restrictions, than Class B permits. In some cases, a Class B allocation has been provided for the first time in order to provide for growth in demand (within the constraints of the water resource). These allocation classes provide for run-of-the-river irrigation and other instantaneous uses. Allocation moves sequentially through the two allocation classes.

Note that Policy 5.8.2 also provides for a Class C allocation for some water resources, specifically for storage purposes. Class C water can be applied for at any stage.

Comment [N14]: The intent of this policy is not clear. As worded it could be interpreted to allow over-allocation. This is opposed.

Alternatively it could be interpreted to:
a. Require quantification of the allocable quantum of water above the limit.
b. Provide for the ability to set reliability bands for takes and specify how this is to be managed within the limit.

The policy should be amended to more clearly establish its purpose and provide a management framework for how that purpose is to be achieved.

[R]

Policy 5.3.4 – Establish allocation volumes for municipal water supplies and avoid applying management flows and levels to the taking of water for the purpose of municipal supply.

Municipal water supplies perform the important function of providing water to residential, commercial and industrial activities in Marlborough's urban environments. Without the supply of water, the urban environments would cease to function. It is therefore critical for our social and economic wellbeing that our towns and small settlements have a reliable supply of water. This policy achieves this aim by providing an allocation specifically for the water needs of Blenheim, Picton, Havelock, Renwick and Seddon (including the Awatere community). The allocation volume is set out in rules. This policy also assists to implement Policy 5.3.1 by making municipal water supplies exempt from restrictions that would apply to other consumptive users.

Comment [N15]: The intent of this policy is unclear. It could be interpreted to infer that municipal takes are not incorporated into Marlborough's water management framework. If this is the case this is opposed. Municipal takes should be incorporated into the allocable quantum (generally via precautionary estimate) before other takes are allocated. This is necessary to ensure that the freshwater is sustainability managed and that over-allocation is avoided.

Amend policy to clarify its meaning and reflecting the above comments.

~~[R]~~

~~**Policy 5.3.5 – Enable the take and use of water where it will have little or no adverse effect on water resources.**~~

~~The policy records a principle that users should be entitled to access water with relative ease if the provisions of the MEP determine the abstraction from the water resource to be sustainable. This policy could be applied in two circumstances. The first is through the application of permitted activity rules for the taking of water. Under Section 14 of the RMA, water use can only occur if provided for in a rule or through a resource consent. One of the key functions of the Council is therefore to enable sustainable abstraction of water via the use of permitted activity rules.~~

~~Access to water allocated through the provisions of the MEP should also be relatively straight forward. However, one of the potential effects of the taking of water is to adversely affect the reliability of existing water takes accessing the same resource, so called "interference effects." There may also be site specific effects of the taking of water on natural and human use values. For this reason, the rules still require a water permit for takes beyond the low volume uses enabled by permitted activity rules. The resource consent process will enable the adverse effects of any proposed take on another user or on natural and human use values to be taken into account. However, the issue of sustainable levels of abstraction have been determined through the application of Policies 5.2.4 to 5.2.16.~~

~~There may be circumstances in which it is appropriate for the Council to consider reducing the amount of water able to be taken under the permitted activity rules to assist it to manage extreme shortages of water. This would be achieved by a Water Shortage Direction issued under Section 329 of the RMA. Any such direction would be issued to address the potential for abstraction authorised by permitted activity rule to adversely affect the resource, the natural and human use resources supported by the resource and/or the ability of people to continue taking essential water from the resource (albeit at a lower rate).~~

Comment [N16]: Water should only be taken within sustainable limits. All permitted and consented takes should be incorporated into the allocable quantum to ensure that water is managed within sustainable limits. Under this approach this policy is redundant. "Little" adverse effects will cumulatively have a significant impact on the water body.

[R]

Policy 5.3.6 – Allocate water within any class on a first-in, first-served basis through the resource consent process until the allocation limit is reached for the first time.

This policy establishes the basis on which freshwater will be allocated within any class. This continues the approach utilised under water allocation and use regimes in previous planning documents. Once an allocation limit is reached, then no further water can be allocated within the class. However, water within the class can become available to allocate again. Other provisions in the MEP address that situation (see Issue 5I).

[R]

Policy 5.3.7 – Allocate water to irrigation users on the basis of a nine in ten year water demand for the crop/pasture.

The irrigation of crops and pasture is designed to offset shortages of soil-water experienced over the drier months of the year. The aim is to provide for the water demand of the plant by supplementing rainfall. Crop and pasture demand for water therefore varies season to season

and within each season, depending on the amount of rainfall. This policy establishes the basis for which irrigation water will be allocated. Allocating on a "nine years in ten" basis fully meets irrigation requirements on the property nine years out of ten and meets a large part of requirements in the very driest years. This standard recognises that it is difficult to provide for absolute reliability given the potential for extreme fluctuations in climate, but nonetheless seeks to provide a high degree of reliability. This reflects the value of the crop/pasture to the grower. It also reflects the fact that the higher the reliability standard is set, the smaller the total area of land that can be irrigated within the allocation limits set for the resource. The "nine in ten" reliability standard is a balance between the value of irrigation to individual growers and its value to Marlborough collectively.

[R]

Policy 5.3.8 – Approve water permit applications to continue taking and using surface water when:

(a) a specific minimum flow and allocation limit for the source Freshwater Management Unit is established in the Marlborough Environment Plan;

(a) the Freshwater Management Unit is not over-allocated in terms of the limits set in the Marlborough Environment Plan;

(b) there is to be no change to the intended use of water, or if there is a change in use, this results in a decrease in the rate of take of water; and

(c) the application is made at least three months prior to the expiry of the existing water permit.

The policy provides criteria for determining water permit applications to continue taking water from the same water resource. If the circumstances set out in (a) to (d) apply, then the existing take and use of water should be granted. Depending on how other policies in the MEP apply to the take, it may be granted with different conditions.

[R]

Policy 5.3.9 – Express any allocation of water for irrigation purposes on the following basis:

	Take of surface water	**Take of groundwater**	**Use of water , except for the Brancott Freshwater Management Unit, Benmorven Freshwater Management Unit or Omaka Aquifer Freshwater Management Unit.**	**Use of water – Brancott Freshwater Management Unit, Benmorven Freshwater Management Unit or Omaka Aquifer Freshwater Management Unit**
Quantity	m^3	m^3	m^3	m^3
Period	24 hours	Annual	Monthly; and Annual	Annual
Method of determination	The maximum daily rate of take shall not exceed the daily volume that fully meets irrigation demand on 90% of	The maximum rate of take (m^3/year) in a July-June year shall not exceed the volume that	The maximum volume of irrigation water use in a calendar month shall be the monthly volume that fully meets irrigation demand in	The maximum volume of irrigation water use in a July-June year shall be the volume that fully meets

	Take of surface water	Take of groundwater	Use of water , except for the Brancott Freshwater Management Unit, Benmorven Freshwater Management Unit or Omaka Aquifer Freshwater Management Unit.	Use of water – Brancott Freshwater Management Unit, Benmorven Freshwater Management Unit or Omaka Aquifer Freshwater Management Unit
	the days in the irrigation season, as calculated by using IrriCalc with climate data for the period 1 July 1972 to 30 June 2014.	fully meets irrigation demand in 90% of July-June years in the period 1 July 1972 to 30 June 2014, as calculated by using IrriCalc.	90% of those months in the period 1 July 1972 to 30 June 2014, as calculated by using IrriCalc; and The maximum volume of irrigation water use in a July-June year shall be the volume that fully meets irrigation demand in 90% of July-June years in the period 1 July 1972 to 30 June 2014, as calculated by using IrriCalc.	irrigation demand in 90% of July-June years in the period 1 July 1972 to 30 June 2014, as calculated by using IrriCalc.

This policy sets out how allocations will be expressed on water permits authorising the taking and use of water. A condition will be applied to water permits authorising the taking of surface water, the taking of groundwater and the use of water, setting out the specific allocation for each activity. The application of the policy will ensure consistency in the expression of conditions. Such consistency will assist to reduce the potential for conflict between water users.

[R]

~~**Policy 5.3.10 – The instantaneous rate of take from a surface waterbody may exceed the instantaneous equivalent of the maximum daily allocation:**~~

~~**(a) by 20% at any point in time; or**~~

~~**(b) for 20% of the time;**~~

~~**but in both cases the cumulative take over 24 hours (midnight to midnight) must not exceed the daily maximum.**~~

~~The infrastructure installed for irrigation from surface water resources is not necessarily set up to operate on a 24 hour basis. In some cases, the authorised allocation is applied over a shorter period (i.e. at an instantaneous rate in litres per second that exceeds the instantaneous equivalent of the maximum daily allocation). This policy provides consent holders with the flexibility to apply the allocated water effectively at this higher rate, provided that the volume of water used over the day does not exceed the daily maximum established through Policy 5.3.9. The higher instantaneous rate of take may occur either at any point over the day or for a proportion of the day. In either case, an exceedance of 20% is considered fair and reasonable in this regard. The limit of 20% also assists to manage interference effects between users and adverse effects on the natural and human use values supported by the river. The irrigation day is set from midnight to midnight.~~

Comment [N17]:
This policy provides for the ability for the amount of water taken at any given moment to exceed the allocation limit, provided that the overall take for a 24 hour period is not exceeded. The intention behind this policy is to provide flexibility for irrigation users.

The limit on the allocable quantum is set to ensure that ecological vales are protected and the life supporting capacity of the environment is safeguarded. A take exceeding the limit even for a short duration can have significant adverse effects on instream ecological values. This approach is inconsistent with the concept of environmental limits. The policy should be deleted.

[R]

Policy 5.3.11 – Have regard to the potential for any take of water to adversely affect the ability of an existing water user to continue taking water and mitigate any adverse effects by limiting, where necessary, the instantaneous rate of take.

A site specific adverse effect of taking water is the potential to influence the efficiency of other water takes from the same resource. The rate of abstraction of water from a river or the method of abstraction may reduce the flow of water past an existing intake or divert water from the intake. Similarly, pumping groundwater from an aquifer draws down aquifer levels in proximity to the bore. Takes located in close proximity to the proposed intake/bore are at greatest risk in this respect. The potential for such "interference effects" exists in spite of the limits set in the MEP.

This policy signals that such adverse effects can be managed by limiting the instantaneous rate of take. Any such limit would be imposed, where necessary, as a condition of the water permit. The potential for any interference effects and the scale of those effects will have to be assessed for any water permit application.

Policy 5.3.12 provides for the construction of bores as a permitted activity. Conditions are set in the relevant rule requiring separation distances between bores in order to further reduce the potential for "interference effects." The separation distance makes it less likely that the drawdown in aquifer level caused by pumping will affect the water level in another bore in the vicinity.

[R]

Policy 5.3.12 – Enable the construction of bores while recognising that this policy does not authorise the taking of water for any purpose other than bore testing.

Bores are used as the means to access water from Marlborough's aquifers. Rules identify that bore construction will be a permitted activity. The construction of a bore has limited potential to cause adverse effects, while still enabling groundwater to be accessed. Although the construction of a bore may be a permitted activity, the abstraction of groundwater for subsequent use may require a water permit (depending on the status of taking water under the rules).

[R]

Policy 5.3.13 – While seeking to manage interference effects between groundwater users, recognise that it is unreasonable to protect an existing take of groundwater when the bore does not fully penetrate the aquifer.

It is not equitable to utilise Policy 5.3.11 to protect the water supply from bores that do not fully penetrate the aquifer. Any such limit would penalise the resource consent applicant for bores that are effectively too shallow. The effect of the policy is that the owner of a shallow well will have to deepen the well or construct a new well in order to protect the reliability of their own water supply.

[R]

Policy 5.3.14 – The duration of water permits to take water will reflect the circumstances of the take and the actual and potential adverse effects, but should generally:

(a) not be less than 30 years when the take is from a water resource:

(i) that has a water allocation limit specified in Schedule 1 of Appendix 6; and

(ii) that has a minimum flow or level specified in Schedule 3 of Appendix 6; and

(iii) that is not over-allocated; or

(b) not be more than ten years when the take is from an over-allocated water resource as specified in Policy 5.5.1; or

(c) not be more than ten years when the take is from a water resource that has a default environmental flow established in accordance with Policies 5.2.7 and 5.2.14.

(d) All permits issued for a particular FMU will be subject to common review dates to

Comment [N18]:
It is important that water takes can be reviewed for efficiency of use to either reduce over-allocation, manage cumulative impacts and allow entry of new users. The PMEP should also provide for common review dates to allow an efficiency assessment to reduce the take amount if it is not being utilized or being poorly utilized.

allow changes to the permit to:

i. reduce over-allocation;

ii. Address cumulative effects;

iii. Assess and address efficiency of use.

~~(c)~~

This policy assists decision makers to determine the appropriate duration of water permits. The circumstance in (a) reflects a desire by water users for longer water permit terms in order to provide the certainty required to make long-term investment decisions. It also recognises that there is certainty regarding the sustainability of water abstraction from a FMU when limits are set by rules in the MEP. In this circumstance, durations of 30 years are generally considered appropriate.

The circumstances in (b) and (c) reflect situations where there is uncertainty regarding the sustainability of abstraction, either because the resource is over-allocated or because there is a lack of knowledge to set specific environmental flows/levels. A shorter term is an effective means of managing this uncertainty as it allows the sustainability of the existing abstraction to be reassessed against the provisions of a reviewed MEP after its current ten year life.

The policy also recognises that there may be other factors involved with a specific proposal that influence the determination of appropriate duration.

[R]

Policy 5.3.15 – Require land use consent for the planting of new commercial forestry in flow sensitive areas.

Afforestation of land currently in pasture has the potential to reduce water yield in the relevant catchment with consequential effects on the surface water hydrology. Water permits have been granted through the provisions of the MEP and through previous planning documents, with reliabilities based on historical surface water hydrology. If water yield is reduced by afforestation in the long-term, it creates the potential to reduce the flow reliability that water users have come to depend upon. This could mean that water users become subject to restrictions more frequently than they have been to date.

The water resources most at risk are south of the Wairau River and specific Afforestation Flow Sensitive Sites are identified. The identified land receives low rainfall (in comparison to north of the Wairau River) and contributes runoff to smaller catchments. These factors make the water resource supplied by runoff from the land more vulnerable to changes in water yield.

The policy does not apply to existing commercial forestry or the replanting of that forest following harvest, as the effects of this forestry on water yield are part of the existing environment.

[R]

Policy 5.3.16 – When considering any application for land use consent required as a result of Policy 5.3.15, have regard to the effect of the proposed forestry on river flow (including combined effects with other commercial forestry and carbon sequestration forestry (non-permanent) established after 9 June 2016) and seek to avoid any cumulative reduction in the seven day mean annual low flow of more than 5%.

The policy provides guidance to determine land use consent applications required as a result of Policy 5.3.15. The threshold protects the reliability of supply for existing water permit holders by limiting the extent of flow modification. The effects of reductions in water yield on reliability are greatest at times of low flow and for this reason the seven day mean annual low flow is used in the policy. It is also important that any assessment of environmental effects considers the cumulative effects of afforestation within a catchment and any opportunities for adverse effects on water yield to be remedied or mitigated.

The establishment of commercial forestry prior to the notification of the MEP was permitted in most situations under the provisions of the previous Wairau/Awatere Resource Management Plan. Any reduction in flow shall be measured against the seven day mean annual low flow at 9 June 2016, being the date of notification of the MEP, and any assessment of cumulative effects should only consider commercial forestry established after 9 June 2016.

Issue 5D – Many water resources are fully allocated or are approaching full allocation, inhibiting the opportunity to provide for further demand for water resources.

Amounts of water available for abstraction (sometimes called a class) were established between 1995 and 1997 for specific rivers and aquifers. Allocation has progressed relatively smoothly and people have been able to access water reasonably easily through the water permit process. For the Awatere, Wairau and Waihopai Rivers this has involved allocation moving sequentially through a tiered system of allocation classes.

Allocations are approaching or have reached allocation limits for a number of rivers. The NPSFM requires the Council to avoid any future over-allocation; i.e. the Council cannot continue to allocate beyond the limits established by the MEP. Without further intervention, reaching a state of full allocation will seriously affect opportunities for future economic growth. Marlborough's primary and secondary industries rely on freshwater and any constraint on future supply will curtail economic growth in these industries.

[R]

Objective 5.4 – Improve the utilisation of scarce water resources.

In a state of full allocation of water resources, and given the implications of full allocation for potential users under the NPSFM, it is essential that an alternative method to gain access to water is found to meet future demand.

[R]

Policy 5.4.1 – The lapse period for water permits to take water shall be no more than two years.

The statutory lapse period to commence the exercise of a resource consent is five years. This is a considerable period of time to have water allocated but potentially not used. With increasing scarcity of freshwater resources, it is appropriate to have a shorter lapse period. This policy records that the appropriate lapse period is two years, as this period represents a reasonable balance between providing sufficient time for a water permit holder to arrange necessary infrastructure and avoiding a situation of other potential users being denied access to reliable water supplies through the consent holder's inaction. The allocation status of the water resource will be taken into account in terms of considering any applications to extend a lapse period under Section 125(1A) of the RMA.

[R]

Policy 5.4.2 – Giving effect to water permits to take and use water will be determined on the basis of the water being taken (and/or stored) for the authorised use and that the take is recorded in accordance with Policy 5.7.4.

Section 125(1A)(a) specifies that a resource consent does not lapse if the consent is "given effect to." There was uncertainty during the administration of the previous resource management plans as to what this term meant in the context of a water permit. To avoid confusion in the future, this policy clearly describes that a water permit is given effect to when, in conjunction with Policy 7.4, water is taken from the freshwater resource, the take is measured via an appropriate meter and the water is used for the purpose in which it was granted.

[R]

Policy 5.4.3 – The lapse period for water permits to use water shall be at least ten years.

A user must, as a minimum, hold a water permit to use water (a water permit to take water may not be necessary depending on the method of water distribution). Opportunities to utilise enhanced transfer of water permits may be limited in time. It would therefore be inappropriate to lapse the water permit to use water on the basis that no such opportunity arose in the lapse period. For this reason, a long lapse period of ten years is signalled for water permits to use

Comment [N19]:
This section should also provide for the use of common review clauses to assess how and if authorized takes are being used efficiently. An efficiency assessment should occur against clear and specified criteria applicable to the specific use. If a take is not being efficiently used then the quantum should be reduced so that it can be accessed by new users. This tool is also important in ensuring that water takes are not 'banked'. A holder of a water permit should be able to transfer water only if they have a take that is efficient for their given activity and have taken action to reduce consumption even further. It should not be available to those who seek a take greater than is required for their specific use specifically to trade the excess.

Efficiency reviews should also be provided for on termination of a water permit for the same reasons.

Include provisions to this effect.

water by this policy. This will ensure that a system of enhanced transfer has the greatest opportunity to function effectively over time.

[R]

Policy 5.4.4 – Enable access to water that has been allocated but is not currently being utilised by individual water permit holders through the transfer of water permits.

This policy seeks to enable the movement of water between users within a freshwater management unit so that more efficient utilisation of the available water can occur. Through the monitoring of water use authorised by resource consent, it is evident that the actual demand for water is usually less (sometimes considerably so) than the volume of water allocated via the water permit. This is water that could be utilised by other existing users or by potential users that are unable to access water due to a state of full allocation.

[R]

Policy 5.4.5 – When an enhanced transfer system is included in the Marlborough Environment Plan to enable the full or partial transfer of individual water allocations between the holders of water permits to take and use water, this will be provided for as a permitted activity where:

(a) the respective takes are from the same Freshwater Management Unit;

(b) the transferee's intended use is separately assessed and subject to consent to ensure that the environmental effects of that use are assessed and appropriately controlled;

~~(b)~~(c) the Freshwater Management Unit has a water allocation limit specified in Schedule 1 of Appendix 6;

~~(c)~~(d) the take is not from the Brancott Freshwater Management Unit, Benmorven Freshwater Management Unit or the Riverlands Freshwater Management Unit;

~~(d)~~(e) metered take and use data is transferred to the Council by both the transferor and the transferee in real time using telemetry;

~~(e)~~(f) the allocation is authorised via a water permit(s) applied for and granted after 9 June 2016;

~~(f)~~(g) the transferee holds a water permit to take water if their abstraction point differs from the that of the transferor; and

~~(g)~~(h) the transferee holds a water permit to use water.

The duration of the transfer is at the discretion of the transferor and transferee and can be on a temporary basis or for the remaining duration of the water permit.

An enhanced transfer system was not included in the MEP when it was publically notified on 9 June 2016. However, the Council intends to introduce such a system to the MEP through the plan change provisions under First Schedule of the RMA at a later date. Under a system of enhanced transfer of water permits, water users would have the flexibility to develop their own transfer arrangements. In these circumstances, there is a need for appropriate protections to be put in place to make a system of enhanced transfer work efficiently and effectively for water users, as well as to protect the reliability of the water resource for existing users. The matters (a) to (f) effectively establish ground rules under which enhanced transfer can occur. In doing so, this policy gives effect to Policy B3 of the NPSFM. The matters listed above will form the basis of permitted activity standards for the transfer of water permits.

[R]

Policy 5.4.6 – Provide water users and the community with daily water use information for fully allocated water resources.

This policy commits the Council to providing daily water use information for uses authorised by way of resource consent occurring in fully allocated water resources. The provision of such information will be particularly important when the enhanced transfer system identified in Policy 5.4.5 is introduced to the MEP as this will enable opportunities for the transfer of water between

Comment [N20]: The policy should identify that the intended use of the transferred water must be separately assessed. Different uses will have different effects.

users to be identified by those users.

Issue 5E – The over-allocation of water resources creates a risk that the cumulative abstraction of water from the resource will exceed the safe yield, creating significant adverse effects on natural and human use values and threatening the reliability of existing water uses.

The NPSFM defines over-allocation of water resources as where a water resource has been allocated beyond a limit or is being used to a point where a freshwater objective is no longer being met. Allocation limits are established for water resources through the provisions of the MEP. Where the cumulative abstraction of water by all water users exceeds the allocation limits, the abstraction creates the potential for significant adverse effects. This is because the limits represent the extent of safe yield from the river or aquifer. Water abstracted in excess of the safe yield is likely to not only adversely affect flows in rivers and levels in aquifers, but also the various uses and values that depend upon those river flows and aquifer levels, including abstractive uses. In summary, such abstraction is unsustainable as it threatens the life-supporting capacity of the water resource and, where the adverse effect is long-term, the ability of the water resource to sustain future generations.

Other provisions of the MEP seek to ensure that allocation limits are not exceeded in the future. However, in five aquifers the allocation of water to users through water permit allocations has already exceeded safe yield. These aquifers are identified in Policy 5.5.1. In the Southern Valleys, actual use under those paper allocations has also exceeded safe yield, resulting in significant drawdown of aquifer levels and adverse effects on water users.

[R]

Objective 5.5 – Phase out any over-allocation of water resources.

Objective B2 and Policy B6 of the NPSFM require the Council to phase out over-allocation of water resources. Objective 5.5 of the MEP is designed to give effect to this requirement.

[R]

Policy 5.5.1 – Recognise that the following Freshwater Management Units are over-allocated with respect to limits established in the Marlborough Environment Plan:

- **(a) Wairau Aquifer;**
- **(b) Benmorven, Brancott and Omaka Aquifer; and**
- **(c) Riverlands.**

The water resources set out in the policy have been over-allocated with respect to limits set out in the MEP. The policy provides certainty with respect to the scope of the application of subsequent policies to address over-allocation.

[R]

Policy 5.5.2 – No new water permit will be granted authorising additional abstraction from the water resources identified in Policy 5.5.1 after 9 June 2016.

Water resources identified as over-allocated should not be placed under further stress by additional demand. Any additional demand will not only make existing or potential adverse effects of over-allocation worse, it will make the community's objective of addressing over-allocation more challenging. For this reason, this policy directs that no further water permits to take water from the water resources identified in Policy 5.5.1 should be granted after 9 June 2016 (the date of notification of the MEP). This policy will be implemented by a prohibited activity rule. For the avoidance of doubt, the policy does not apply to any application to continue taking water from the water resource in the same circumstances as previously authorised.

[R]

Policy 5.5.3 – Avoid any additional diversion of water from over-allocated water resources for use on land in other freshwater management units.

Over time, many water users have been innovative in addressing the shortage of water in an area by diverting available water from other water resources. However, diverting water from an over-allocated water resource to another freshwater management unit will not result in sustainable outcomes and is to be avoided.

[R]

Policy 5.5.4 – Progressively resolve over-allocation of the Wairau Aquifer Freshwater Management Unit and Riverlands Freshwater Management Unit by ensuring water permits granted after 9 June 2016 to continue taking water from the Freshwater Management Units reflect ~~the reasonable demand~~ reasonable demand and efficient practice as assessed using a common assessment tool or criteria ~~given the intended~~ use.

This policy sets out the means by which the over-allocation of groundwater from the Wairau Aquifer and Riverlands Aquifer will be resolved. The application of the policies to achieve efficient water use (see Policies 5.7.1 to 5.7.6) will reduce the cumulative allocation of water from the Wairau Aquifer over time. By 2025 it is expected that the total allocation authorised by resource consent will reflect the allocation limit. This policy will assist to give effect to Policy B6 of the NPSFM.

Comment [N21]: Takes should be determined by efficiency of use as determined using common criteria or a common tool. This ensures that applications are assessed fairly and equally using a common standard. MDC will need to develop efficiency standards with industry and stakeholder input for activities where ICALC cannot be used.

[R]

Policy 5.5.5 – Resolve over-allocation of the Benmorven, Brancott and Omaka Aquifer Freshwater Management Units by reducing individual resource consent allocations on a proportional basis, based on the total allocation available relative to each individual's irrigated land area, or equivalent for non-irrigation water uses (excluding domestic and stock water). The reductions will be achieved by reviewing the conditions of the relevant water permits ~~. to reallocate the available allocation fairly across all relevant users~~.

This policy sets out the means by which the over-allocation of groundwater from the Benmorven, Brancott and Omaka Aquifer FMUs will be resolved. A reduction in the allocation that has been granted resource consent, based on reallocating the total allocation available relative to each individual's irrigated land area, is considered to be the most equitable means of reducing total allocation of water from these FMUs. Where water use is for non-irrigation purposes, such as winery or commercial use, the proportion of the reallocation will be calculated to be relative to irrigation water permit holders.

Comment [N22]: Over-allocation means that the amount of water that can be taken from the water body does not leave sufficient water behind for the water body to remain healthy. In this situation the water gained through proportional reductions is not taken to be reallocated to water users but to be allocated to the environment.

A degree of reduction of allocation has already occurred prior to the notification of the MEP through the processing of some water permits to continue taking water from these resources. Some resource consent applicants have also applied to take less water than the guideline rate under the provisions of the WARMP/MSRMP. These actions will be taken into account in terms of the application of the policy to these specific water permits.

The reductions will be calculated and applied by reviewing the conditions of water permits in accordance with Section 128(1)(b) of the RMA.

Reflecting Policy 5.3.1, no proportional reduction of allocation has been applied to takes used to supply stock or domestic water.

This policy will assist to give effect to Policy B6 of the NPSFM.

Issue 5F – The taking of groundwater in proximity to rivers can individually or collectively reduce flows in the rivers.

For most of Marlborough's water resources, there is exchange of water between rivers and underlying groundwater. Because of this interaction, the taking of groundwater can reduce the flow in the river, termed a "stream depletion" effect. The degree of stream depletion will vary

depending on the rate of groundwater pumping, the distance between the point of abstraction and the river and the ability of water to move through the sediments on the river bed and through the adjoining soils. Where groundwater abstraction causes stream depletion effects, there is the ability for the same effects identified in Issue 5B to be created, either in isolation or in combination with other groundwater and/or surface water takes.

[R]

Objective 5.6 – Ensure that the taking of groundwater does not ~~cause significant adverse effects on river flow~~ limits to be breached.

Comment [N23]: The focus of the objective should be on ensuring limits are met. It may be that in a specific FMU ground water takes make a greater proportion of the overall take than surface water takes. This is acceptable provided the overall take means that flow and water quantity stay at the limit set in the PMEP.

Natural and human use values supported by rivers are flow dependent. Any reductions in river flow caused by groundwater abstraction at times of low flow have the ability to adversely affect the natural and human use values supported by the river. As for direct takes of surface water, the objective with respect to groundwater takes that have stream depletion effects is to maintain the natural and human use values supported by flow in the river.

[R]

Policy 5.6.1 – Unless there is an identified aquifer dominant Freshwater Management Unit, all water within a catchment will be managed as a surface water resource. This means that the minimum flow, management flow and allocation limit established for the river dominant Freshwater Management Unit will also apply to groundwater takes.

In a Marlborough context, an aquifer is a significant body of water stored in the unconsolidated materials below the ground surface. The groundwater occupies the pore space between sand, silt or gravel particles. In many cases, the groundwater associated with rivers does not involve the storage of a significant volume of water and the groundwater is therefore not recognised as an aquifer. In these circumstances, the taking of groundwater has greater potential for stream depletion effects.

This policy directs that the potential adverse effects of groundwater takes will be managed in the same manner as surface water takes. The effect of the policy is two-fold:

- any take of groundwater will be included within the allocation provided from the river; and
- the environmental flow set for the river will apply to any groundwater take.

Aquifers are excluded from the policy as either the volume of stored groundwater has the potential to buffer the effects of groundwater abstraction on flows in rivers or there is sufficient physical separation between a river and underlying aquifer so that no stream depletion effect is caused.

[R]

Policy 5.6.2 – Manage the potential for groundwater takes in proximity to spring-fed streams on the Wairau Plain to cause a recession of the position of headwaters of the streams by establishing aquifer minimums below which the taking of groundwater must cease.

As the slope of the Wairau Plain flattens, groundwater returns to the surface in the form of springs. The largest of these spring systems are Spring Creek, Fultons Creek and Murphys Creek. Although not retaining outstanding natural character, these rivers are still highly valued by the community for the clear water that flows in them and in the case of Fultons Creek and Murphys Creek, the provision of a baseflow of water to sustain the Taylor River during the summer months.

The taking of groundwater in close proximity to spring-fed streams has the potential to cause stream depletion effects. The greatest risk is that abstraction could cause a downstream shift in the position of the headwaters. In order to preserve the remaining natural character of these spring-fed streams and to maintain the amenity values that they support, this policy identifies that groundwater takes close to spring-fed streams will be subject to specific management.

A network of bores has been established across the spring belt of the Wairau Plains to monitor aquifer levels. There is a very good relationship between aquifer level and the position of headwaters of the spring-fed streams and the subsequent flows in the streams. Aquifer environmental levels have been established by regional rule at each of the monitoring bores. The taking of groundwater in the relevant FMU must cease when the level of water in the Wairau Aquifer falls to the specified level.

Issue 5G – Allocating more water than is actually required for any use creates the potential for inefficient use of water. This can compromise the sustainability of the resource and prevent other users accessing water.

Inefficient allocation and use of water is potentially a significant issue in Marlborough, given that many water resources are at or are approaching full allocation. As described in Issue 5D, once allocation limits have been reached, the Council is unable to continue allocating water to other users. Allocating and/or using more water than is required for a particular use represents a lost opportunity for other potential users to gain access to water in a limit based management system. This can occur when water is allocated to a user but is not utilised or is lost through wasteful distribution/application methods. There will be cumulative social, cultural and economic effects from inefficient allocation and use of water once limits have been reached. In particular, as Marlborough relies on water for primary production and the processing of crops, inefficient allocation and/or use of water limits the opportunities for economic growth and employment.

[R]

Objective 5.7 – The allocation and use of water do not exceed the rate or volume required for any given water use.

Water is one of Marlborough's most significant natural resources. There is a collective community responsibility to ensure that the greatest social, cultural and economic benefit can be derived from the water available for consumptive use. Efficient allocation and use of water has an important role to play in this respect, as it ensures that water is put to productive use.

[R]

Policy 5.7.1 – When resource consent is to be granted to use water, every proposed use will be authorised by a separate water permit. Categories include municipal, irrigation, industrial, residential, commercial and frost fighting.

This policy identifies that the use of water is a separate activity to the taking of water from a water resource, with the potential for distinct positive and adverse effects. By requiring a separate water permit to authorise the use of water, those effects can be recognised and, where necessary, appropriately managed through the processing of the application in accordance with the provisions of the MEP.

The policy also establishes separate classes of use. This distinction between different uses allows other policies of the MEP to be applied to those uses, including Policy 5.7.5.

[R]

Policy 5.7.2 – To allocate water on the basis of reasonable demand and efficient practice assessed using a common assessment tool or criterial given the intended use.

Comment [N24]: As above.

One of the ways in which efficient use of water can be achieved is by ensuring that the allocation to the user does not exceed that which is reasonably required for the use. In the case of irrigation, the Council will provide users with a tool, "IrriCalc," to estimate water demand for the crop, based on the soil type(s) and climate that exist at the property.

This policy assists to give effect to Policy B4 of the NPSFM.

[R]

Policy 5.7.3 – Water permit applications to use water for irrigation will not be approved when the rate of use exceeds efficient practice or the ~~the~~ reasonable use calculation, except where the applicant can demonstrate that they require more water based on property specific information and:

a. That water is being used on site.

b. That additional water use is necessary for the specific use.

c. The applicant demonstrates that the water will be used efficiently

d. The permit includes review dates to assess use and efficiency.

e. The additional take will not result in over-allocation.

Comment [N25]: Any exception to the appropriate use calculation should be within specific perimeters to prevent perverse outcomes. Those perimeters should prevent additional takes being sought purely for trading purposes, should ensure that the additional take is necessary and will be efficiently used, and that it can be subject to scrutiny under review.

Irrigation is used to replace any deficit in soil moisture in order to maintain crop health and growth. Climate and the properties of the soil in which the crop is growing are the main determinants of water availability and therefore irrigation demand. In terms of soils, Plant Available Water (the measure of the difference between field capacity and plant wilting point) is a key influence on crop water demand. The Plant Available Water varies according to soil type.

"IrriCalc" uses existing soils information and modelled climate data to provide estimates of water use for all crop types. To ensure efficient use of water for irrigation, the Council will generally not grant water permits to use water for irrigation purposes at a rate that exceeds the reasonable use calculation provided by "IrriCalc."

Past methods of determining water use allocations have not accounted for the variation in water demand when growing the same crop in different locations and conditions. The use of "IrriCalc" in the manner described above will therefore result in improvements in the efficient allocation and use of water and assist to give effect to Policy B4 of the NPSFM.

The policy recognises that the calculation is a modelled calculation and may not accurately estimate reasonable use in all circumstances. For this reason, the policy provides resource consent applicants the opportunity to provide property specific information on the factors that influence crop demand that may demonstrate a higher rate of water use than IrriCalc would otherwise indicate. Examples could include historical measurement of rainfall or the investigation of soil type and plant available water on the property. Regard can be had to such information in determining an appropriate allocation on water permits to use water.

[R]

Policy 5.7.4 – Require water permit holders to measure their water take with a pulse emitting meter, to record water take and use with a data logger, and to transfer the recorded water take and use information by the use of telemetry. Alternative methods of measurement, recording or transfer that provide the Marlborough District Council with accurate water take and use data may be considered.

All water takes authorised by way of resource consent are required to be accurately metered. The water use information gained through the measurement of water take and use is important for:

- establishing compliance with the water allocations provided by water permits and the conditions imposed on water take and use (e.g. compliance with water restrictions);
- enabling cumulative rates of take within a freshwater management unit to be accounted for (and reported) as required by Policy CC1 of the NPSFM;
- indicating the extent of water availability at any point in time; and
- establishing or refining a relationship between cumulative rates of water use and the water resource response. In this way, water use information collected through accurate metering assists the Council to review limits set in accordance with provisions of the MEP and refine those limits where necessary.

The policy establishes the requirements with respect to measurement of water takes in Marlborough. Data loggers provide accurate water take records and their use avoids the need for manual readings. The use of telemetry ensures the transfer of recorded data to the Council in a timely fashion. These

efficient means of recording and transferring water take information will also assist to enable the transfer of water permits between users, as provided for under Policy 5.4.4. By providing users with real time information on water user relative to limits, metering establishes the extent of water availability at any point in time.

[R]

Policy 5.7.5 – Separate measurement will be required to record different categories of water use, but not for different uses within each category. Categories include municipal, irrigation, industrial, residential, commercial and frost fighting.

Reflecting Policy 5.7.1, each different category of water use authorised by water permit must be measured. This policy helps to give effect to Policy CC1 of the NPSFM, which requires the Council to account for the proportion of water taken for each major category of use. Water use information is requested by Central Government on an annual basis for the purposes of national reporting. The categories in the policy reflect the nature of those requests.

[R]

Policy 5.7.6 – Have regard to the efficiency of the proposed method of distribution and/or irrigation in determining resource consent applications to use water for irrigation purposes.

The way in which water is distributed and/or applied to the crop can influence the technical efficiency of water use. Methods or practices of distribution and/or application that are wasteful (relative to crop demand) are inappropriate within a limit-based water management system. When considering a water permit application to use water, it is appropriate that the Council has regard to the nature of the irrigation system to ensure that wasteful water use is avoided. The use of technology and best irrigation practice will be important factors for resource consent applicants to address in their applications. Industry groups may produce guidance material that assists with this task.

[R]

Policy 5.7.7 – Allocate water for domestic needs on the basis of five cubic metres per household per day.

Rules specify that a reasonable abstraction for an individual's domestic needs is five cubic metres per household per day. However, there are water permits authorising the supply to more than one household that enable the taking of water at higher rates. The exercise of these water permits effectively represents an inefficient use of water. When applications to continue taking domestic water are processed in these circumstances, the allocation provided will be reduced from the previously authorised level to the equivalent of five cubic metres per household per day.

This reduction in allocation will help the Council to address over-allocation in accordance with Policy B6 of the NPSFM while still providing sufficient water to the consent holder for domestic needs. This outcome will ensure that the over-allocation of the water resource is addressed equitably across all water users.

This policy assists to give effect to Policy B4 of the NPSFM.

Frost fighting

[R]

Policy 5.7.8 – Approve applications to take and use water for frost fighting purposes only where there are no effective alternative methods for frost control on the property.

Although the use of water for frost fighting may be efficient for protecting crops, it involves significant volumes of water at very high rates of use (compared to irrigation). For this reason, the use of water for frost fighting is not considered efficient, especially in circumstances where water resources are fully allocated or are approaching full allocation. There are alternatives methods of frost fighting that do not involve the use of water (e.g. wind machines) and the policy identifies that these methods should generally be used in preference. However, the policy also recognises that there are circumstances where alternative methods of frost protection are not effective and in these cases the use of water can be considered.

This policy assists to give effect to Policy B4 of the NPSFM.

[R]

Policy 5.7.9 – A limitation will be imposed on the maximum rate of use of water for frost fighting purposes of 44 cubic metres per hour per hectare.

This policy assists to give effect to Policy B4 of the NPSFM and sets a maximum rate of water use for frost protection in order to avoid excessive use of water.

[R]

Policy 5.7.10 – Avoid taking water for frost fighting purposes during periods of peak irrigation demand (1 January to 30 April in any calendar year).

Given the significant volume of water involved in frost fighting, it is inappropriate for this water to be taken during the period of peak water demand (January to April). Abstraction of frost fighting water during this period has the potential to adversely affect other users of water. It is also unlikely that frost conditions will exist for most of the time period stated in the policy.

[R]

Policy 5.7.11 – Where water is to be stored for the purpose of frost fighting, require a minimum storage volume equivalent to three days of frost fighting demand. In addition, where water is proposed to be taken to replenish stored water used during a frost event, have regard to effect of the rate of refill on other water permit holders and the natural and human use values supported by the source waterbody.

Stored water is often used to supply water for frost protection given the high water demand. It is reasonable for people to replace the water utilised from the reservoir/dam for frost protection, particularly if subsequent frosts are predicted. The rate of abstraction of water to refill the reservoir/dam can be high and may lead to adverse effects on the natural and human use values supported by the waterbody and on other users of water. For this reason, there should be sufficient water stored to protect against three consecutive days of frost. This will minimise the need to take water at a significant rate to refill the reservoir for frost fighting on the subsequent day. If a person undertaking frost fighting proposes to refill the reservoir within the three days, then it is appropriate to also consider the effects of the rate of refill.

Issue 5H – Demand for water typically peaks when river flows and aquifer levels are at their lowest, which can cause short-term water availability issues.

Marlborough typically experiences a dry climate with the potential for significant seasonal variation in rainfall. Rainfall over summer months, even in average years, is insufficient to meet the demand of most crops, resulting in a significant increase in the demand for water for irrigation purposes. For the same reasons (low rainfall and high evapo-transpiration), the flow of water in rivers and the levels of aquifers are typically at their lowest over this same period. The imposition of environmental flows/levels to protect the life-supporting capacity of the water resource can result in the restriction or suspension of abstraction from those water resources. The outcome is one in which water users, particularly irrigators, cannot access water at the very time they need it the most. In such circumstances there is the potential for failure of crops or at least reduced yield. Given the importance of primary production to Marlborough's social and economic wellbeing, there is a need to find ways to alleviate such short-term water availability issues.

[R]

Objective 5.8 – Maximise the availability of water within the limits of the resource.

Water availability varies significantly in Marlborough, both in time and location. There are methods by which water that is available at different times of year (due to higher rainfall and lower evapo-transpiration) or available at other locations can be made available to help resolve short-term water availability issues. Examples can include the storage of water and/or augmentation of

water resources from other sources. This objective seeks to maximise water availability in order to mitigate the significant negative effects of water shortages, especially for primary production, which relies on water to grow crops. The sustainable yield from the water resource can place natural limits on the ability to achieve this objective, but where there are opportunities to supplement water resources, these will result in a more resilient economy and community.

[R]

Policy 5.8.1 – Encourage the storage of water as an effective response to seasonal water availability issues where storage is consistent with safeguarding ecosystem health.

Given Marlborough's dry climate, especially over the summer months, storage of water has been utilised as a common strategy to offset temporary shortages of water for irrigation purposes. Storage has involved the interception of runoff by damming ephemeral water bodies, the damming of intermittently or permanently flowing water bodies and the placement of abstracted water in purpose-built reservoirs. There may also be the potential to augment river flow from the stored water. All of these approaches provide a back-up supply of water that increases water user resilience. For this reason the storage of water is strongly supported.

Storage can have significant adverse effects on ecosystem health either through changes in flow or as a result of the increased use that storage provides for and the effects of that use on water quality. Water storage should not be encouraged unless it is consistent with safeguarding ecosystem health and achieving water quality targets.

Comment [N26]: Storage can have significant adverse effects on ecosystem health either through changes in flow or as a result of the increased use that storage provides for and the effects of that use on water quality. Water storage should not be encouraged unless it is consistent with safeguarding ecosystem health and achieving water quality targets. It is critical that this link between increased access to quantity and increased use, and water quality, is identified in order to prevent perverse outcomes.

In some cases, activity status will assist to encourage the storage of water by providing for activities involved in storing water as a permitted activity or controlled activity.

Damming of intermittently or permanently flowing waterbodies can create the potential for adverse effects. These effects will be considered through Policies 5.2.21 and 5.2.22.

[R]

Policy 5.8.2 – Provide for the abstraction of surface water for storage purposes during periods of higher flow for subsequent use during periods of low flow (and therefore low water availability).

Utilising higher flows in surface waterbodies to offset the shortage of water for irrigation during periods of low flow is an efficient and effective water management mechanism. The abstraction of water during periods of higher flow and the placement of this water into storage have been enabled for some time in Marlborough through Class C water permits. This regime continues under the reviewed resource management framework. It will assist water users to manage water shortages in a limit-based management regime, especially in response to the effect of any suspension of Class A or Class B water permits in accordance with other provisions in the MEP. "Higher flows" will be defined by rules which will set minimum flows below which water cannot be taken for storage through Class C water permits.

[R]

Policy 5.8.3 – Water may be stored at times other than those specified in Policy 5.8.2 to provide water users with greater flexibility to manage water use on-site, provided that the rate of take does not exceed the authorised daily rate of take for irrigation purposes.

Although an explicit C class exists to facilitate access to water for storage purposes under the circumstances set out in Policy 5.8.2, taking water allocated under another class for storage can also be efficient. For example, some rivers experience periods of high turbidity that can make run-of-the-river abstraction particularly difficult due to the effect on irrigation distribution systems. The storage of water during the irrigation season provides for a back-up supply of irrigation water when access to Class C water may otherwise be restricted or where no Class C has been established. There may also be short-term peaks in flow over the irrigation season in response to rainfall events that, while not sufficient to reactivate access to Class C, still create an opportunity to store water. This policy recognises these circumstances by enabling the storage of Class A or Class B water.

The policy also recognises that Class A and Class B were primarily created to enable access to water as instantaneous takes. Significant abstraction of water over the irrigation season for storage purposes has the potential to adversely affect the reliability of existing takes of water (by

drawing down river flow/aquifer level at a faster rate than would otherwise have been the case).

For this reason, the policy limits the rate of take of water for storage purposes to the authorised daily take for irrigation purposes. This still provides the consent holder with flexibility to decide how water will be used on any given day, but also ensures that the abstraction would have no greater effect on existing users than the daily take solely for irrigation purposes.

[R]

Policy 5.8.4 – The annual volume of water taken for storage shall not exceed a volume equivalent to the authorised rate of take for irrigation purposes for two irrigation seasons for the property or properties to be served by the stored water.

This policy ensures that water taken for storage is not excessive relative to the use(s) to which it is eventually to be put. Excessive storage of water may frustrate the attempts of other users to access water by fully allocating the C class or through interference effects caused by the rate of take from the source waterbody. The policy provides a threshold for appropriate storage that reflects that the stored water should be sufficient to provide for irrigation needs for two seasons. This is reasonable in Marlborough's dry climate where consecutive dry summers have historically occurred.

The policy assists to give effect to Policy B4 of the NPSFM.

[R]

Policy 5.8.5 – All water placed in storage should be accurately accounted for.

Although storage is not as such a 'use' of water (as water is stored for pending and subsequent use), it is still important to account for water taken from freshwater bodies for storage purposes as it represents a permanent removal of water from the freshwater resource. This policy does not establish a set methodology for accounting in these circumstances, as there has been, and will continue to be, a wide diversity of distribution systems developed by individual water users in response to the circumstances that exist on their property. The appropriate accounting system will be developed on a case-by-case basis through the resource consent process, but as a minimum requirement must accurately account for water taken from the freshwater resource that would not otherwise be accounted for through the metering requirements established by Policy 5.7.4. Dedicated metering would be one form of measurement, but other methods may also be appropriate.

Issue 5l – There is the potential for a new water user to get access to water on a more reliable basis than allocations already made, resulting in inequitable outcomes.

Freshwater in Marlborough has become a scarce resource in many freshwater management units as resource limits are approached (if not already reached). This results in competition for available water. Policy 5.3.6 identifies that the first in, first served method of allocation is efficient and effective for dealing with this competition prior to allocation limits being reached for the first time.

Once the water resource is fully allocated, there are limited circumstances under which that allocated water could become available for re-allocation. For example, an existing consent to take and use water may lapse, be only partially exercised, or be surrendered. Water users have identified as a concern the ability for existing or potential users to gain access to that water through the first in, first served method of allocation. Water that becomes available will have an inherent reliability depending on when that water was first allocated relative to other subsequent allocations. If the application is granted, the successful applicant may gain access to water under more favourable circumstances than other users granted water later than the original permit was granted. This is considered an inequitable outcome and one that could see the competition for water resulting in community conflict.

[R]

Objective 5.9 – Ensure that water users in the same or similar circumstances are treated in the same manner when it comes to securing access to water.

Comment [N27]: Again an efficiency test should be applied to all existing uses on application for renewal of water permits. This prevents water banking and frees up allocation for new users. Policies to this effect should be included.

Water users have a desire to ensure that others in the same or similar circumstances are treated in the same manner with regard to securing access to water through the resource consent process. That does not mean that the outcome of the process will necessarily be the same, as the finite nature of water resources will inevitably result in different outcomes as allocation proceeds on a first in, first served basis. The provisions of the MEP attempt to ensure that there is some certainty about the volume of water available for allocation and the circumstances under which it is available to minimise the potential for conflict in the community. Even so, there will be circumstances under a first in, first served allocation regime that create the potential for a water user to get access to water on a more reliable basis than allocations made previously. This objective seeks to avoid such inequitable outcomes.

[R]

Policy 5.9.1 – Once an allocation limit is reached and that part of the water resource is fully allocated, any water that subsequently becomes free to allocate to other users will only be made available to those users through a system of ballot.

This policy sets out in principle that any water that becomes available to re-allocate shall be allocated via ballot. A ballot is considered by water users to be the most equitable way to determine who should receive the water given the likely competition for the water amongst existing users. It avoids the situation of a person gaining access to water in preference to other potential users based on the nature of the use or because they were first to make an application.

[R]

Policy 5.9.2 – On securing the ballot, the successful ballotter must apply for the necessary water permits to authorise the taking and (if relevant) use of water. Until the successful ballotter(s) secures the necessary water permits, the water resource is considered fully allocated.

The policy sets out what the successful ballotter must do to secure the allocation gained through a ballot. As existing water permits define the spatial extent and rate of use, any proposed additional use would exceed existing allocations expressed in consents to take and use water. This means that a separate water permit would be required to authorise the taking and use of water. This policy secures the ability to make such an application without predetermining the outcome. While this process is underway, the water resource is considered to remain fully allocated to prevent a third party making an application for a water permit that would effectively nullify the result of the ballot.

[R]

Policy 5.9.3 – If required, any ballot will be conducted on the following basis:

- **(a) at least annually for the calendar year;**
- **(b) if the water permit holder already holds a water permit to take and use water for the same purpose, then they must surrender the original water permit before giving effect to the new water permit; and**
- **(c) if the subsequent water permit application to authorise the taking of water is not made within 12 months of the ballot result or the water permit application is refused, then that water will be re-balloted in the subsequent year.**

The matters in (a) to (c) set out procedurally how any ballot to allocate water would be conducted. These matters will therefore guide the ballot process, if any ballot is required.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[R]

5.M.1 Regional rules

Set environmental flows and/or levels for permanently flowing rivers, lakes, wetlands and aquifers to maintain the uses and values supported by the waterbody.

Set allocation limits for each FMU to establish the total amount of water able to be sustainably abstracted from the water resource.

Apply regional rules to regulate the taking, use, damming or diversion of water in accordance with the policies in this chapter. This includes the use of permitted activity rules to enable the taking, use, damming or diversion of water where the activity will not give rise to adverse effects on natural and human use values supported by the waterbody.

A permitted activity rule will enable the construction of bores.

Prohibit the taking, use, damming or diversion of water where those activities would adversely affect the significant values of outstanding water bodies.

Prohibit the taking of water beyond environmental flows/levels and allocation limits set by rules.

Require all resource consents granted for water takes to be measured by pulse emitting meter and recorded by data logger, and require the recorded take and use information to be transferred to the Council by telemetry.

Review water permit conditions to impose or alter environmental flows and levels (or other relevant limits) established by rules in the MEP.

[R]

5.M.2 Water user groups

Encourage the establishment of water user groups to assist the Council to manage water resources. In particular, seek to work with water user groups in the Awatere and Waihopai FMUs to achieve voluntarily rationing of water takes in response to falling flows in order to achieve the flow objectives for each river.

[R]

5.M.3 Ballot

If water in a fully allocated FMU becomes available for allocation again, the Council will hold a ballot to determine who can make an application to take and use the water. If a water user group exists for the FMU, then the Council will seek to work with it to run the ballot.

[R]

5.M.4 Information

Provide water users and the community with river flow and aquifer level information so that they can make informed decisions with respect to the rationing or cessation of their water take in order to comply with the rules in the MEP.

Provide water users with information on their recorded water use relative to their water permit allocation.

[R]

5.M.5 E-Planning

Deliver Council resource consent, compliance and environmental information functions through digital means via the Council website. Provision of timely information and functions will assist water users to improve their use practices and encourage more efficient use of water.

[R]

5.M.6 Incentives

Incentivise the storage of water during periods of higher river flow to provide an alternative supply of water during periods of low flow. Incentives include the use of a permitted activity for the use of stored water and a controlled activity for the taking of Class C water.

[R]

5.M.7 Modelling

Model the irrigation demand of pasture and crops according to soil type and climate. The model output will be used as a basis for determining allocations for the use of water. The model will be provided to water users via the E-planning tool.

[R]

5.M.8 Research

Continue to research the reasonable use requirements of the crops grown in Marlborough. This will include continuing to collect and refine soil information to allow the model to be refined over time.

[R]

5.M.9 Advocacy

Encourage water users to undertake soil moisture monitoring on irrigated properties so that irrigation occurs to maintain soil moisture levels. This will result in more responsive and efficient use of water.

Issue 5J – People want to be able to use and develop the coastal marine area for private benefit.

The Council's role in managing the resources of the coastal marine area follows from the way in which people's use of the coastal marine area is restricted under the RMA. The RMA prohibits the use or occupation of the coastal marine area unless allowed to by resource consent or rules within a regional coastal plan. (The same situation does not apply to land uses above the mean high water springs mark, where people are allowed to use land unless a district plan rule states they cannot.)

Management regimes for specific uses and activities in the coastal marine area are included within Chapter 13 - Use of the Coastal Environment. However, provisions in this part of the Marlborough Environment Plan (MEP) deal with higher level concerns about how space in the coastal marine area should be allocated, the degree to which various occupations generate private versus public benefits and the circumstances in which a user should pay to use the space.

The community has different expectations about the extent of rights able to be enjoyed in using public resources. For some, there is a belief that there is a right to be able to have a jetty and a boatshed fronting a family property in the Marlborough Sounds and multiple moorings for boats. Others believe that there are no such rights. Many such structures have limited benefit for the wider public, yet occupy public space. Conversely, some structures, such as public jetties and launching ramps, do provide enhanced public use of and access to the coast and consequently are of general public benefit.

The occupation of coastal marine area may effectively prevent other activities from occurring. The extent to which the public are excluded from parts of the coastal marine area varies according to the nature of an authorised activity, whether by resource consent or by a rule in a regional coastal plan. At times there can also be conflict and competition for water space, where uses and activities are not necessarily compatible in the same area.

Regardless of the type of activity or use proposed in the coastal marine area, in addition to consideration of other effects it is important that the impact on the public interest is considered, as the coastal marine area is a public resource.

[RPS, C]

Objective 5.10 – Equitable and sustainable allocation of public space within Marlborough's coastal marine area.

The control of the occupation of space in the coastal marine area is a specific function of the Council. The Council allocates or allows the right to use public resources for private benefit. This is within the Council's role of promoting the sustainable management of the natural and physical resources of the coastal marine area. The objective is therefore intended to ensure that these resources and their associated qualities remain available for the use, enjoyment and benefit of future generations in a way that minimises adverse effects on the environment, avoids conflicts between users and ensures efficient and beneficial use.

[RPS, C]

Policy 5.10.1 – Recognition that there are no inherent rights to be able to use, develop or occupy the coastal marine area.

Both the RMA and the New Zealand Coastal Policy Statement 2010 (NZCPS) anticipate that appropriate 'use' can be made of the coastal marine area and that this may involve occupation of coastal space for private benefit. Additionally, the Marine and Coastal Area (Takutai Moana) Act 2011 enables public access and recreation in, on, over and across the public foreshore and seabed, as well as general rights of navigation. However, it is important to recognise that the rights to be able to use coastal marine area are not guaranteed in terms of Section 12 of the RMA; rather, use must be enabled by way of a rule in a plan or by resource consent.

[RPS, C]

Policy 5.10.2 – The 'first in, first served' method is the default mechanism to be used in the allocation of resources in the coastal marine area. Where competing demand for coastal space becomes apparent, the Marlborough District Council may consider the option of introducing an alternative regime.

The default process for processing resource consent applications under the RMA is 'first in, first served.' The Council processes resource consent applications in the order they are received, provided they are accompanied by an adequate assessment of environmental effects. Using this approach the Council has to date effectively managed the demand for space in the coastal marine area. However, if competing demand for space becomes an issue, the Council may consider the introduction of other allocation methods. There may also be certain circumstances under which a specific allocation mechanism is introduced to address a specific issue.

[RPS, C]

Policy 5.10.3 – Where a right to occupy the coastal marine area is sought, the area of exclusive occupation should be minimised to that necessary and reasonable to undertake the activity, having regard to the public interest.

Exclusive occupation restricts access to the resource consent holder, who has the right to occupy and therefore alienate public space from public use. However, not all activities require exclusive occupation, meaning that other users may carry out activities in the same space where there is no occupation needed, e.g. recreational boating. Given the public's expectation of being able to use the coastal marine area, the Council considers that exclusive occupation should only be allowed where absolutely necessary.

[C]

Policy 5.10.4 – Coastal occupancy charges will be imposed on coastal permits where there is greater private than public benefit arising from occupation of the coastal marine area.

The RMA enables the Council to apply a coastal occupancy charge to activities occupying space within the coastal marine area, after having regard to the extent to which public benefits from the coastal marine area are lost or gained and the extent to which private benefit is obtained from the occupation of the coastal marine area. The Council has considered the private and public benefits associated with coastal occupations and has determined that where the private benefit is greater than the public benefit, charging for occupation of coastal space is justified. The assessment of benefits (private/public) is directed to those arising or lost as a consequence of the structure occupying coastal space, not the associated activity that may be facilitated by the structure being present.

[C]

Policy 5.10.5 – The Marlborough District Council will waive the need for coastal occupancy charges for the following:

- **(a) public wharves, jetties, boat ramps and facilities owned by the Marlborough District Council and the Department of Conservation;**
- **(b) monitoring equipment;**
- **(c) activities listed as permitted, except for moorings in a Mooring Management Area;**
- **(d) retaining walls; and**
- **(e) port and marina activities where resource consents authorised under Section 384A of the Resource Management Act 1991 are in place until such time as those resource consents expire.**

These waivers exist because the facilities owned by the Council and the Department of Conservation provide a significant level of public benefit as they are used by and available to many people. Retaining walls generally do not occupy significant areas of the coastal marine area to the exclusion of other users, while monitoring equipment is generally very small and often temporary. There are few permitted activities that involve occupation and those that are permitted tend to have a more significant element of public benefit, e.g. navigation aids or public and safety information signs. Although moorings in a Mooring Management Area identified through rules are provided for as a permitted activity in the Coastal Marine Zone (where a relevant bylaw is in place), these moorings are for private benefit and therefore will attract a coastal occupation charge.

Certain occupation rights are granted to port companies under Section 384A of the RMA. In Marlborough the resource consents granted under this section of the RMA relate to port related commercial undertakings being carried out in the areas of Picton (excluding the area of port in Shakespeare Bay), Waikawa, Havelock, Elaine and Oyster Bays. The RMA appears to exempt these resource consents from attracting coastal occupancy charges until after 30 September 2026.

[C]

Policy 5.10.6 – Where there is an application by a resource consent holder to request a waiver (in whole or in part) of a coastal occupation charge, the following circumstances will be considered:

- **(a) the extent to which the occupation is non-exclusive;**
- **(b) whether the opportunity to derive public benefit from the occupation is at least the same or greater than if the occupation did not exist;**
- **(c) whether the occupation is temporary and of a non-recurring nature;**
- **(d) whether the applicant is a charitable organisation, trust or community or residents association, and if so:**

(i) the nature of the activities of that organisation; and

(ii) the responsibilities of that organisation.

Section 64A(3)(b) of the RMA requires the circumstances when the Council will consider waiving, either in whole or part, coastal occupation charges to be set out in the MEP. These circumstances, set out in a) to d) above, effectively require consideration of the difference between private benefit from an occupation and the public benefit that can accrue from an occupation. For a), where there is exclusive occupation this carries a high degree of private benefit, whereas where the occupation is only temporary there may only be a short-term private benefit. Where trusts, clubs, associations, etc are involved, it is important to understand the nature of the activities and responsibilities of that organisation, including how its purpose relates to the occupation for which a waiver is being sought and the wider public benefits that will accrue from this.

[C]

Policy 5.10.7 – The manner in which the level of coastal occupancy charges has been determined is as follows:

(a) the expenditure related to the Marlborough District Council's role in the sustainable management of Marlborough's coastal marine area has been established;

(b) the anticipated exemptions and waivers from coastal occupancy charges has been considered;

(c) the beneficiaries and allocation of costs fairly and equitably amongst beneficiaries has been decided; and

(d) the appropriate charge for the differing occupations to recover costs has been determined.

In deciding how to set charges, the Council has used as its starting point the actual expenditure considered necessary to promote the sustainable management of the coastal marine area. The budgeted expenditure for this is described year to year in the Council's Annual Plan for the Environmental Science and Monitoring Group, Environmental Policy Group and Environmental Compliance and Education Group.

In determining who should meet the cost of sustainably managing the coastal marine environment, an allocation of costs needs to occur between beneficiaries. The Council has considered that a contribution towards the costs should be made by ratepayers (25%) as well as those benefitting from the occupation of public space (75%). The Council has also given consideration to anticipated waivers that may be granted and the number and size of the various occupations. From this assessment, a schedule of charges has been derived and is set out in the Council's Annual Plan.

[C]

Policy 5.10.8 - Any coastal occupancy charges collected will be used on the following to promote the sustainable management of the coastal marine area:

(a) implementation of a Coastal Monitoring Strategy;

(b) State of the Environment monitoring;

(c) research in relation to the state and workings of the natural, physical and social aspects of the coastal marine area;

(d) education and awareness;

(e) habitat and natural character restoration and enhancement;

(f) managing marine biosecurity threats;

(g) maintaining and enhancing public access; and

(h) formal planning in the Resource Management Act 1991 planning context and strategic planning and overview in relation to the coastal environment.

The RMA requires that in implementing a coastal occupancy charging regime, any money collected must be used to promote the sustainable management of the coastal marine area. The policy describes those matters on which the revenue collected from imposing charges is to be used, as required by the RMA. Greater detail on these matters can be found in a number of the subsequent chapters of the MEP, including Chapter 6 - Natural Character, Chapter 7 - Landscape, Chapter 8 - Indigenous Biodiversity, Chapter 9 - Public Access and Open Space, Chapter 10 - Heritage Resources, Chapter 13 - Use of the Coastal Environment and Chapter 15 - Resource Quality (Water, Air, Soil).

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[C]

5.M.10 Regional Rules

Include provisions relating to the requirement for coastal occupation charges for port facilities where appropriate, moorings, marinas where appropriate, marine farms, jetties, wharves, boat ramps and slipways, boatsheds and other structures and utilities. Rules will also require discretionary activity applications to be made to enable an assessment of whether an exemption or waiver of any charge should be granted.

[C]

5.M.11 Annual Plan

The level of charge to be applied to any activity for which a coastal permit is granted to occupy the coastal marine area is set out in the Council's Annual Plan.

Anticipated environmental result	Monitoring effectiveness
5.AER.1 Sufficient flow in rivers and adequate groundwater level to sustain natural and human use values supported by these water bodies.	Attainment of environmental flows and levels, as recorded at representative monitoring sites. The record of compliance with environmental flows and levels, as recorded by water meter and published via E-planning.
5.AER.2 Maintenance of spring flows on the Wairau Plain.	Attainment of environmental flows for Spring Creek, Taylor River and Doctors Creek, as measured at representative monitoring sites.
5.AER.3 Maintenance of the significant values of outstanding water bodies.	Reassessment of waterbody values at the time of the next review of the MEP.
5.AER.4 More efficient allocation of water resources.	The number of water permits granted for the use of water on the basis of the reasonable use test.

Anticipated environmental result	Monitoring effectiveness
5.AER.5 Increased utilisation of allocated water.	Increased use of water, within allocation limits, as recorded by water meter and published via E-planning. Water users transfer water permits from site to site, as recorded by E-planning.
5.AER.6 Reduced conflict between water users.	A reduction in the number of complaints regarding the taking, use, damming and diversion of water.
5.AER.7 Over-allocation of water resources is phased out.	The total amount of water allocated to water users in over-allocated resources does not exceed the allocation limit by 2025.
5.AER.8 Land use change does not reduce water yield in fully allocated FMUs to the extent that it adversely affects the reliability of existing water permits.	No significant increase in the incidence of flow restrictions experienced by water permit holders in fully allocated FMUs.
5.AER.9 Storage of water is increasingly utilised to improve the resilience of water uses.	The record of the number of Class C water permits granted.

ANNEXURE 2.E

EDS reasons and relief in comment boxes and/or track-changes.
EDS also seeks any consequential relief, including to the PMEP rules, necessary to respond to the issues raised and give effect to the changes sought.
Provisions not specifically commented on are supported (subject to the changes sought).

6. Natural Character

Introduction

Natural character includes the natural elements, patterns, processes and experiential qualities of an environment. ~~The natural character of the coastal environment, and freshwater bodies and their margins, is comprised of a number of key components which include:~~

Comment [N1]:
Listing the factors that contribute to natural character in the introduction is confusing and unnecessary. They are more appropriately included in the following policies.

~~• coastal or freshwater landforms and landscapes (including seascape);~~

~~• coastal or freshwater physical processes (including the movement of water and sediments);~~

~~• biodiversity (including individual indigenous species, their habitats and communities they form);~~

~~• biological processes and patterns;~~

~~• water flows and levels, and water quality; and~~

~~• the ways in which people experience the natural elements, patterns and processes.~~

~~Collectively, t~~These combine to create the overall natural character of the environment. Provisions included elsewhere in the Marlborough Environment Plan (MEP) target the individual components of natural character and provide direction on how adverse effects on particular values can be managed. These include:

- Chapter 5 - Allocation of Public Resources
- Chapter 7 - Landscape
- Chapter 8 - Indigenous Biodiversity
- Chapter 9 - Public Access and Open Space
- Chapter 13 - Use of the Coastal Environment
- Chapter 15 - Resource Quality (Water, Air, Soil)

~~However, there is a need for this m~~Management needs to be integrated in order to preserve natural character in coastal and freshwater environments. This ensures that the management of the individual components of natural character is co-ordinated to achieve a common end in the context of Section 6(a) of the Resource Management Act 1991 (RMA), of the New Zealand Coastal Policy Statement 2010 (NZCPS) and of the National Policy Statement for Freshwater Management 2014 (NPSFM).

Issue 6A – Resource use and changes in resource use can result in the degradation of the natural character of the coastal environment, and of lakes, rivers and their margins.

Section 6(a) of the RMA requires the Council to preserve the natural character of the coastal environment, wetlands, and lakes, rivers and their margins and to protect this natural character from inappropriate subdivision, use and development. The NZCPS sets a similar objective for the coastal environment.

The entire coastal environment and all freshwater bodies possess some or all of the components of natural character (natural elements, patterns, processes and experiential qualities) and therefore all hold some degree of natural character. The extent of human-induced modification has a significant influence on the level of natural character that exists in the coastal environment and in and adjacent to freshwater bodies. Some environments will have high natural character due to the lack of human-induced modification and may even be in a natural state. In other areas, there will be little remaining natural character due to extensive human-induced modification of the environment.

Preservation of natural character is a matter of national importance and there is a real risk that further human-induced modification within coastal or freshwater environments will have adverse effects. This risk is greatest in unmodified environments, as it is more likely that subdivision, use and development will change the existing natural elements, patterns, processes and experiential qualities. As the degree of existing human-induced modification in the coastal or freshwater environment increases, so too does the ability of the environment to assimilate change into the components that contribute to natural character.

Even in areas with low overall natural character, components of high natural character may remain and the protection of this natural character from inappropriate subdivision, use and development may still be important to the local community, wider public and intrinsically. These areas could also become the focus of restoration efforts.

[RPS]

Objective 6.1 – Assess natural character and evaluate its degree ~~Establish the degree of natural character~~ in the coastal environment, and in lakes and rivers and their margins.

Marlborough's coastal and freshwater environments are diverse, reflecting a range of landforms and landscapes, natural processes and characteristics, and biodiversity. The degree of human-induced modification in our coastal environment and in our wetlands, lakes and rivers also varies significantly. Some areas are in a relatively natural state, while others have been significantly modified as a result of human activity. This variation explains why it is necessary to establish the degree of natural character in coastal and freshwater environments. Achieving this objective will assist in establishing which activities are inappropriate in the context of Section 6(a) of the RMA.

The natural character of wetlands has been established through an integrated process of assessing wetland values. Provisions to preserve the natural character of wetlands are included in Chapter 8 - Indigenous Biodiversity.

[RPS]

Policy 6.1.1 – Assess natural character r~~R~~ecognising~~e~~ the ~~that the~~ following contributing ~~natural elements, patterns, processes and experiential qualities contribute to natural character~~ factors :

(a) ~~areas or water bodies in their natural state or close to their natural state~~;

(b) coastal or freshwater landforms and landscapes (including seascape);

~~(b)~~(c) hydrological, geological and geomorphological aspects

~~(c)~~(d) coastal or freshwater physical patterns and processes (including the natural movement of water and sediments);

~~(d)~~(e) biodiversity (including individual indigenous species, their habitats and communities they form);

~~(e)~~(f) biological systems, processes and patterns;

~~(f)~~(g) water flows and levels and water quality; and

~~(g)~~(h) the experience of the above elements, patterns and processes, including unmodified, scenic and wilderness qualities.

This policy describes those matters considered to contribute to the natural character of coastal and river environments. This provides MEP users with a clear understanding of the meaning of natural character.

Comment [N2]:
The objective does not recognize that the assessment of natural character is a 3 stage process. First the different natural character elements of a specific area are identified. Secondly the degree of naturalness or of modification is assessed. Thirdly, if an area qualifies as high, very high, or outstanding it is mapped and specifically managed.

The amendments proposed are intended to clarify this approach.

Comment [N3]:
The proposed amendments focus the policy and give the factors identified a clear role.

Factor (a) is not a natural character element but rather a factor in assessing its degree. It does not fit comfortably in Policy 6.1.1 and should be deleted.

The factors listed do not include hydrological, geological and geomorphological aspects. These factors are required to give effect to Policy 15 NZCPS. They are also currently incorporated to some extent in the following policies addressing degree of natural character. They are more appropriately located here.

[RPS]

Policy 6.1.2 – The extent of the coastal environment is identified in the Marlborough Environment Plan to establish the areas of land and coastal marine area to which management may need to be applied in order to protect the natural character of the coastal environment from inappropriate subdivision, use and development.

The coastal environment includes the coastal marine area, an active coastal interface area (where the sea is the dominant element and influence on landform, vegetation and perception) and a coastal significance area (which generally includes the land up to the first coastal ridge) - see Figure 6.1. This recognises the characteristics set out in Policy 1 of the NZCPS. All of the Marlborough Sounds is considered to be coastal environment, while the south coast of Marlborough is more complex due to variation in landform.

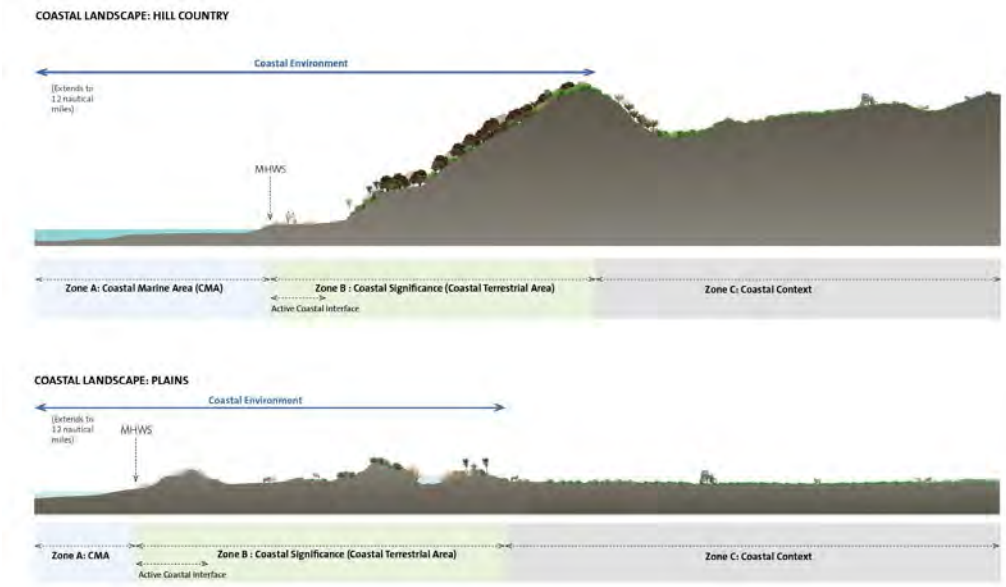

Figure 6.1: Extent of the coastal environment.

The landward extent of Marlborough's coastal environment is mapped in the MEP. Establishing the extent of the coastal environment defines the areas in which activities may need to be managed in a particular way to preserve the natural character of this environment in accordance with Section 6(a) of the RMA. This will provide resource users and the community with certainty as to the spatial area to which the natural character and other provisions of the NZCPS apply.

[RPS]

Policy 6.1.3 – ~~Determine~~ Evaluate the degree of natural character in both the coastal marine and coastal terrestrial components of the coastal environment by~~—assessing~~:

(a) assessing the degree of human-induced modification on ~~abiotic systems and landforms, marine and terrestrial biotic systems and experiential qualities~~the factors in Policy 6.1.1; and

(b) categorizing natural character at a range of scales.

The natural character of the coastal environment can vary significantly from place to place. An evaluation of the degree of natural character in Marlborough's coastal environment has been undertaken. This comprised an assessment of the extent of human-induced modification in the coastal marine area and on land within the coastal environment. To assist this process, Marlborough's coastal environment was divided into nine distinct coastal marine areas and

Comment [N4]:
As worded (a) paraphrases Policy 6.1.1. This is unclear and creates confusion as to which of the factors in Policy 6.1.1 are relevant to evaluation of the degree of natural character.

17 distinct coastal terrestrial areas based on land typology. For each area, abiotic systems and landforms, biotic systems and experiential attributes were assessed. Freshwater values within the coastal environment were identified in the coastal terrestrial areas.

The analysis of natural character was undertaken at a range of scales from broad (i.e. at the Marlborough Sounds or South Marlborough level) through to a more detailed scale, which in some cases was bay-level assessment. As a result, natural character can be perceived at different levels and different scales, depending on the level of information that is available. The scales at which the assessments have been undertaken can be seen in Figure 6.2.

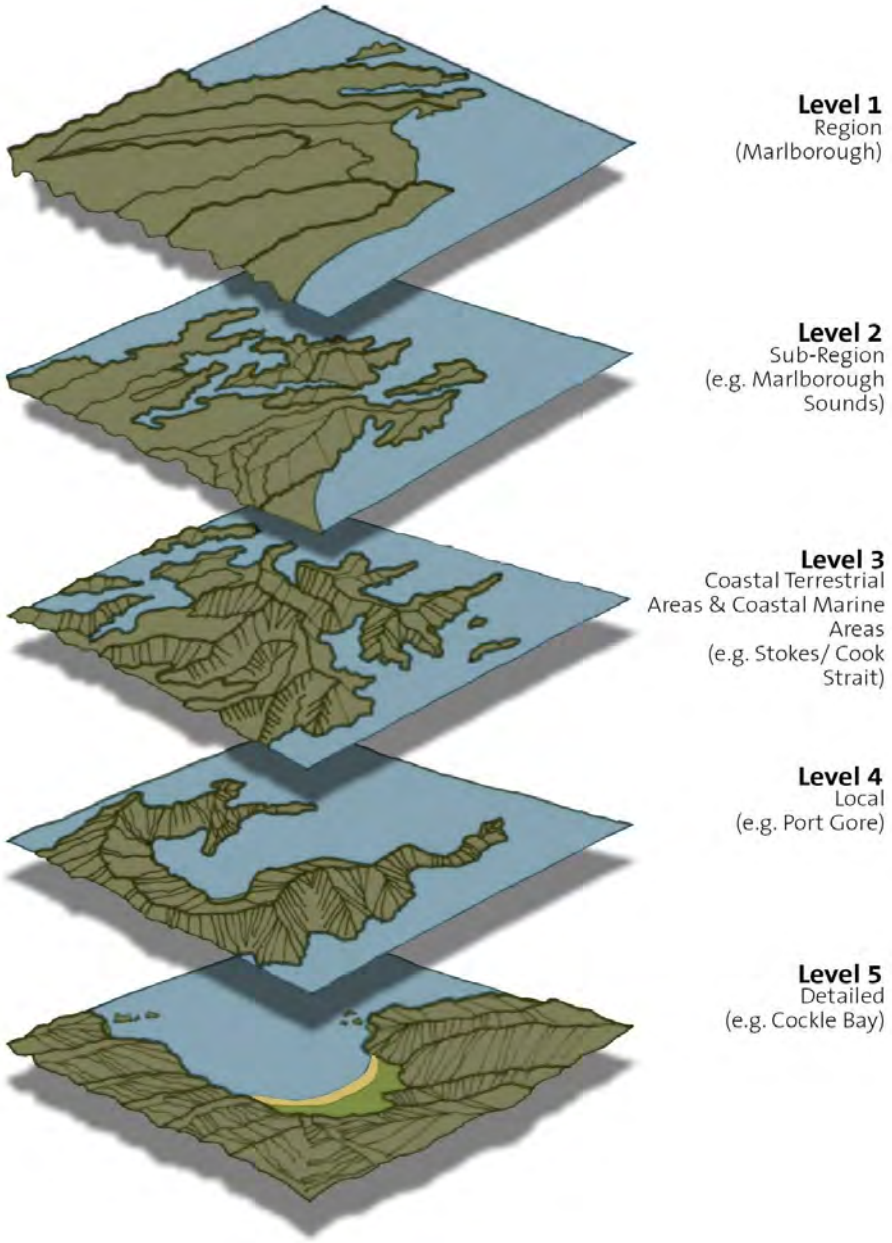

Figure 6.2: Natural Character Assessment Scale

Appendix 2 identifies the values that contribute to high and very high coastal natural character in each of the discrete natural character areas (reaching Levels 4 to 5 on the assessment scale). The values for areas with outstanding coastal natural character are also included within Appendix 2.

[RPS]

Policy 6.1.4 – Identify and map those areas of the coastal environment that have high, very high or outstanding natural character.

Policy 13 of the NZCPS requires that areas of at least high natural character be mapped or otherwise identified. The Council considers that the most effective form of identification is mapping, as it provides certainty on the location and extent of those spatial areas. For this reason, the MEP identifies through mapping areas of the coastal environment that have high or very high natural character following an evaluation in accordance with Policy 6.1.3. Because of the gaps in knowledge of marine ecosystems, it is difficult to map an exact line where natural character shifts from high to very high. For this reason the maps show a 'transition' area between areas of high and very high natural character in marine areas.

Policy 13(1)(a) of the NZCPS specifies requirements for areas of outstanding natural character. For the purposes of the MEP, those areas of the coastal environment that have very high natural character and which also exhibit a combination of natural elements, patterns and processes that are exceptional in their extent, intactness, integrity and lack of built structures (and other modifications) compared to other areas in Marlborough, are identified as having outstanding coastal natural character. These areas are also mapped in the MEP.

The mapping of high, very high and outstanding natural character through this policy will enable appropriate management to be applied to relevant parts of the coastal environment to give effect to the NZCPS.

[RPS]

Policy 6.1.5 – ~~Determine~~ Evaluate the degree of natural character in and adjacent to lakes and rivers by assessing the degree of human-induced modification to the ~~following:~~ factors in Policy 6.1.1.

~~(a) channel shape and bed morphology;~~

~~(b) flow regime and water levels;~~

~~(c) water quality;~~

~~(d) presence of indigenous flora and fauna in the river channel;~~

~~(e) absence of exotic flora and fauna;~~

~~(f) absence of structures and other human modification in the river channel/lake;~~

~~(g) vegetation cover in the riparian margin;~~

~~(h) absence of structures and other human modification in the riparian margin; and~~

~~(i) the experience of the above elements, patterns and processes including unmodified, scenic and wilderness qualities.~~

Comment [N5]: As worded (a) paraphrases Policy 6.1.1. This is unclear and creates confusion as to which of the factors in Policy 6.1.1 are relevant to evaluation of the degree of natural character.

The matters identified in (a) to (i) are those elements, patterns, processes and experiential qualities that contribute to the natural character of Marlborough's lakes and rivers and their margins. The extent to which these have been modified by human activities will determine the degree of natural character. Where the matters in (a) to (i) have not been modified or have been only been slightly modified, then the natural character will be assessed as being very high. As the degree of human-induced modification of the river and its margins increases, the degree of natural character will reduce from high, through moderate, low and finally, very low (where the river environment has been heavily modified).

[RPS]

Policy 6.1.6 – Identify and map those rivers or parts of rivers that have high or very high natural character.

Although there is no specific requirement for the Council to identify rivers that have high or very high natural character, the Council has undertaken an assessment to determine the natural character values of a number of Marlborough's rivers. This has been carried out to recognise and provide for Section 6(a) of the RMA. Using the criteria in Policy 6.1.5, a five-point assessment scale on the significance of the waterbodies has allowed natural character to be determined. The rivers with high or very high natural character have been mapped in the MEP. Further information on a range of values for Marlborough's rivers, including natural character values, is set out in Appendix 5.

[RPS, R, C, D]

Objective 6.2 – Preserve the natural character of the coastal environment, and lakes and rivers and their margins, and protect them from inappropriate subdivision, use and development.

This objective meets the expectations of Section 6(a) of the RMA, which establishes that preservation of natural character is a matter of national importance.

[RPS, R, C, D]

Policy 6.2.1 – Avoid the adverse effects of subdivision, use or development on areas of the coastal environment with outstanding natural character values and on lakes and rivers and their margins with high and very high natural character values.

Where the natural character of the coastal environment is outstanding, Section 6(a) of the RMA indicates that this level of preservation should be retained, particularly when coupled with the similar direction in Policy 13 of the NZCPS. This means that any adverse effects on natural character values should be avoided. That is not to say that no subdivision, use or development can occur within the coastal environment - activities may not adversely affect the natural character of the surrounding environment, or may include features or benefits that maintain the existing levels of natural character.

For freshwater bodies there is also a requirement in Section 6(a) to preserve the natural character of wetlands, lakes and rivers and their margins and to protect this natural character from inappropriate subdivision, use and development. Having regard to Policy 6.1.5, the Council has assessed the values of rivers and lakes and their level of significance in order to give effect to Section 6(a). In undertaking this assessment, the Council has determined that where the freshwater values are high or very high, then adverse effects on these values should be avoided.

[RPS, R, C, D]

Policy 6.2.2 – Avoid significant adverse effects of subdivision, use or development on coastal natural character, having regard to the significance criteria in Appendix 4.

The degree of adverse effects on coastal natural character is an important consideration under Policy 13(1)(b) of the NZCPS. Where the extent of change in the coastal environment from subdivision, use or development causes significant adverse effects on natural character, the NZCPS states those effects should be avoided. There is therefore a threshold beyond which remediation and/or mitigation of those adverse effects is not an appropriate management option. That threshold will be determined on a case-by-case basis through the resource consent or plan change process. The significance of the adverse effect will depend on the nature of the proposal, the natural character context within which the activity is proposed to occur and the degree of change to the attributes that contribute to natural character in that context.

In addition to using information in the appendices on the degree of natural character at particular locations, consideration should also be given to other chapters of the MEP, which help to inform how adverse effects can be avoided. For example, the policies in Chapter 7 - Landscape, Chapter 8 - Indigenous Biodiversity and Chapter 13 - Use of the Coastal Environment, target the

individual components of natural character and therefore provide a framework on how to avoid significant adverse effects on natural character values.

[RPS, R, C, D]

Policy 6.2.3 – Where natural character is classified as high or very high, avoid any reduction in the degree of natural character of the coastal environment or freshwater bodies.

The degree of adverse effects on coastal natural character is an important consideration under Policy 13 of the NZCPS. This policy establishes a threshold for the extent of further change that can be made in coastal environments that have high or very high natural character. Any activity that would have the effect of reducing the natural character at or near the site to a classification below that which exists at the time of making a resource consent application or plan change request, will be considered a significant adverse effect in the context of Policy 13(1)(b) of the NZCPS and should therefore be avoided. Although there is no equivalent direction in a statutory sense for freshwater bodies that reflects Policy 13(1)(b) of the NZCPS, the Council considers that the same policy approach is relevant given that freshwater bodies are included within the direction in Section 6(a).

The extent of change in natural character at or near a site will be determined on a case-by-case basis through the resource consent or plan change process. The change will depend on the nature of the proposal, the natural character context within which the activity is proposed to occur and the degree of change to the attributes that contribute to natural character in that context. For the coastal environment specifically, Appendix 2 contains information on the elements, patterns, processes and experiential qualities that give discrete areas high or very high natural character. For freshwater environments, information on a range of values for Marlborough's rivers, including natural character values, is set out in Appendix 5. This will help to inform any assessment of environmental effects on natural character of Marlborough's rivers and the coastal environment.

[RPS, R, C, D]

Policy 6.2.4 – Where resource consent is required to undertake an activity within coastal or freshwater environments with high, very high or outstanding natural character, the application must address:

(a) the potential adverse effects on the characteristics and qualities that contribute to the natural character values of the area.

(b) How policies 6.2.1 or 6.2.2 will be achieved (using Appendix 4 if applicable) and taking into account:

- **(i) The location, scale and design of the proposed activity.**
- **(j) The extent of anthropogenic changes.**
- **(k) The presence of absence of structures, buildings or infrastructure.**
- **(l) The temporary or permanent nature of adverse effects.**
- **(m) The physical and visual integrity of the area, and the natural processes of the location.**
- **(n) The intactness of any areas of significant vegetation and vegetative patters.**
- **(o) The physical, visual and experiential values that contribute significantly to the wilderness and scenic value of the area.**
- **(p) The integrity of landforms, geological features and associate natural processes.**
- **(q) The natural characters and qualities that exist or operate across land and water and between freshwater bodies and coastal water bodies.~~regard will be had to the potential adverse effects of the proposal on the elements, patterns, processes and experiential qualities that contribute to natural character.~~**

Where it is proposed that an activity will take place in an area of high, very high or outstanding natural character, it is appropriate that the applicant assesses the impact of the proposal on natural character at the site and in the surrounding environment. To undertake the assessment, regard must be had to the elements, patterns, processes and experiential qualities that contribute to natural character. For the coastal environment, Appendix 2 of the MEP contains information on

Comment [N6]:
The intention of this policy is unclear. The explanation indicates that its purpose is to ensure that an AEE for an activity in a natural character overlay specifically assess the effects on that overlay. However the wording of the policy itself indicates that a consent application must have regard to the potential adverse effects and nothing more which conflicts with Policies 6.2.1, 6.2.2. It also fails to give any direction on what should be considered when assessing an application. This is especially important because the PMEP is a combined document. This means there is no other document providing further guidance on how effects should be assessed.

Chapter 6 does not include any directive policies addressing specific activities and their effects equivalent to Policy 7.2.7. It should. Natural character areas are equally sensitive to development pressures as ONLs and their protection is also a matter of national importance. Clear and directive provisions are necessary to ensure that key pressures are appropriately controlled.

these matters for each area, which will assist the assessment process. The level of assessment undertaken should reflect the scale of the proposed activity and the potential adverse effects on the attributes that contribute to the natural character in the coastal environment. The values of freshwater bodies, including natural character values, can be found in Appendix 5.

[RPS, R, C, D]

Policy 6.2.5 – Recognise that development in parts of the coastal environment and in those rivers and lakes and their margins that have already been modified by past and present resource use activities is less likely to result in adverse effects on natural character.

Modified coastal and freshwater environments have greater potential to absorb change than those that have not been modified previously or that have low levels of modification. For this reason, the Council will use a combination of regional and district rules, zoning and overlays to provide direction about where development should be located. This will help to preserve the natural character of coastal and freshwater environments.

[RPS, R, C, D]

Policy 6.2.6 – In assessing the appropriateness of subdivision, use or development in coastal or freshwater environments, regard shall be given to the potential to enhance natural character in the area subject to the proposal.

It may be possible to improve the natural character of coastal environments and freshwater bodies through appropriate subdivision, use and development of natural resources. Any improvement to the landscape, natural processes, biodiversity, water flows or quality incorporated into the proposal will be considered in this regard. Enhancement of natural character is particularly desirable where the coastal environment and freshwater bodies have been substantially modified by past resource use activities. Enhancement in this context is to be used in its broadest term and can include restoration and rehabilitation. However, for the purposes of this policy it does not include addressing the effects of a proposal. Any actions proposed by an applicant or imposed by the consent authority (through consent conditions) begin the process of remedying past resource use impacts on natural character. The policy also implements Policy 14 of the NZCPS.

[RPS, R, C, D]

Policy 6.2.7 – In assessing the cumulative effects of activities on the natural character of the coastal environment, or in or near lakes or rivers, consideration shall be given to:

- **(a) the effect of allowing more of the same or similar activity;**
- **(b) the result of allowing more of a particular effect, whether from the same activity or from other activities causing the same or similar effect; and**
- **(c) the combined effects from all activities in the coastal or freshwater environment in the locality.**

Although individual activities may not adversely affect the natural character of the coastal environment or freshwater bodies, when combined with the effects of similar activities or other activities with similar effects, the activities may collectively have cumulative adverse effects on natural character. This policy describes how the cumulative effects of activities on the natural character of the coastal environment or freshwater bodies will be considered. For the coastal environment specifically, any consideration of cumulative effects should take into account scale and may need to include consideration of the intactness of the coastal terrestrial and coastal marine natural character areas.

[RPS, R, C, D]

Policy 6.2.8 – Require land use activities to be set back from rivers, lakes and the coastal marine area in order to preserve natural character.

The proximity of land use activity to rivers, lakes and the coastal marine area has a significant influence on the potential for adverse effects on natural character. The closer the activity, the greater the potential for modification to the elements, patterns, processes and experiential qualities that contribute to natural character. For this reason, land use activities will be required to be set back from rivers, lakes and the coastal marine area. The setback will be implemented through permitted activity standards and application can be made for resource consent to undertake an activity within the setback. The adverse effects of any such proposal will be assessed against the provisions of this chapter.

[RPS, R, C, D]

Policy 6.2.9 – Encourage and support private landowners, community groups and others in their efforts to restore the natural character of the coastal environment, wetlands, lakes and rivers.

Not all of the responses to preserving natural character need to be achieved through regulatory methods, particularly when restoring natural character in parts of the coastal environment and in wetlands, lakes and rivers already significantly modified by historic human activity. This policy acknowledges the significant efforts of private landowners, community groups and others to restore natural character in modified coastal and aquatic environments. The Council will seek to support existing restoration initiatives and will encourage new restoration initiatives to be

established. Given that natural character consists of a range of abiotic, biotic and experiential attributes, methods elsewhere in the MEP targeting an improvement in the quality of the environment will also contribute to the restoration of natural character.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[RPS, R, C, D]

6.M.1 Regional and district rules

As necessary, apply district or regional rules to activities that have the potential to threaten identified attributes that contribute to natural character, particularly areas with high, very high and outstanding natural character. The status of activities will depend on the severity of the threat and range from permitted activity standards through to prohibited activities. Activities to be regulated include:

- subdivision;
- erection and placement of structures, especially location, scale, density and appearance;
- land disturbance;
- indigenous vegetation removal; and
- the planting of certain species of exotic tree.

[RPS]

6.M.2 Identifying natural character within Marlborough's freshwater and coastal environments

An assessment of Marlborough's coastal and freshwater environments has identified areas of high, very high and outstanding natural character. For freshwater environments, the assessment is included within the document "The Natural Character of Selected Marlborough Rivers and Their Margins," and identifies rivers and parts of rivers that have high or very high natural character. For Marlborough's coastal environments, the assessment is included within the document "Natural Character of the Marlborough Coast." The results of the assessments are mapped in the MEP. Appendix 2 of the MEP also identifies the attributes that contribute to the high, very high or outstanding natural character of these mapped areas of coastal environment, while Appendix 5 identifies the values of Marlborough's rivers, including natural character values.

[R, C, D]

6.M.3 Information

The Council has made available background information on the natural character of Marlborough's coastal and freshwater environments. This information is included in the documents identified in Method 6.M.2. The contents of the documents is useful reference material generally, but can also be used by resource consent applicants to assist any assessment of adverse effects on natural character.

[R, C, D]

6.M.4 Restoration of natural character

The document "Natural Character of the Marlborough Coast" provides information on potential actions that can be taken to restore the natural character of the coastal environment. This information will help land owners and resource users to implement measures to restore natural character on their property or as part of their operations.

Anticipated environmental results and monitoring effectiveness

The following table identifies the anticipated environmental result of the natural character provisions of the MEP. The anticipated environmental result is a ten year target from the date that the MEP becomes operative. An indicator that will be used to monitor the effectiveness of the natural character provisions is also indentified.

Anticipated environmental result	Monitoring effectiveness
6.AER.1	
The natural character of Marlborough's coastal environment and of lakes, rivers and their margins is retained.	Only appropriate development is allowed to occur within the coastal environment and in lakes, rivers and their margins, as measured by reassessment of the degree of natural character within these environments.
The intactness of the individual coastal marine and coastal terrestrial areas of the Marlborough Sounds is retained in order to preserve the natural character of the Sounds.	The abiotic systems and landforms, biotic systems and experiential attributes that contribute to the natural character of the coastal environment are retained, as measured by reassessment of Marlborough's natural character.

As the natural character of coastal and freshwater environments is formed by a number of natural elements, patterns, processes and experiential qualities, the anticipated environmental results and indicators in the following chapters will also help to determine whether the anticipated environmental result above is achieved:

- Chapter 5 - Allocation of Public Resources;
- Chapter 7 - Landscape;
- Chapter 8 - Indigenous Biodiversity;
- Chapter 9 - Public Access and Open Space;
- Chapter 13 - Use of the Coastal Environment; and
- Chapter 15 - Resource Quality (Water, Air, Soil).

ANNEXURE 2.F

EDS reasons and relief in comment boxes and/or track-changes.
EDS also seeks any consequential relief, including to the PMEP rules, necessary to respond to the issues raised and give effect to the changes sought.
Provisions not specifically commented on are supported (subject to the changes sought).

7. Landscape

Introduction

Our landscapes provide us with a Marlborough identity and are an integral part of the Marlborough environment. Landscapes are distinct spatial areas influenced by location-specific processes within the environment. These processes can be natural or human-induced (e.g. land use change). Natural features within the landscape can also help to define a landscape. The resulting landscape characteristics are expressed visually, but can be valued for their ecological significance or for intrinsic reasons (e.g. by providing a sense of place).

The Resource Management Act 1991 (RMA) identifies the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development as a matter of national importance (Section 6(b)). Those landscapes that do not meet the threshold of being considered 'outstanding' may still make a contribution to the visual appreciation or amenity values of Marlborough. The RMA seeks to maintain and enhance these landscapes with visual amenity value (Section 7(c)). For the purposes of this chapter, landscapes that are identified for Section 6(b) or 7(c) reasons are referred to as "significant landscapes." in provisions that apply to both outstanding natural landscapes and to amenity landscapes.

There are five broad landscape areas in Marlborough: the Richmond Range and associated mountain ranges; the Wairau and Awatere River Valleys; the mountainous interior; the Marlborough Sounds; and the remainder of the coastal environment on the East Coast. The MEP identifies these landscape areas and then identifies outstanding natural landscapes and amenity landscapes within each.

Comment [N1]:
As worded the relationship between 'significant' landscapes, ONLs and amenity landscapes, and how that works within the planning framework is not clear.

The relationship between the broad landscape areas and 'significant' landscapes is also not clear.

The proposed amendments aim to address this.

Richmond Ranges

These mountains enjoy a wetter climate than their counterparts to the south. As a consequence, and due to the steep landform, the slopes and valleys are predominantly covered in indigenous forest. Although plantation forestry and intensive pastoral farming are evident within the valleys and on some of the lower slopes, especially along the north bank of the Wairau River, the majority of the land is managed by the Department of Conservation. A number of European and Māori historic and cultural elements can also be found within this landscape, particularly within the eastern coastal margin from Rarangi in the south to Oyster Bay in the north.

Wairau and Awatere River valleys

These river valleys are characterised by their broad, low lying outwash plains confined to the Wairau River plain and the Awatere River valley. These plains are bounded by the characteristic rolling hills of Southern Marlborough. This vastly modified landscape contains urban developments, pasture, forestry, horticulture and vineyards.

Mountainous interior

The mountainous interior south of the Wairau River is an extensive, largely inaccessible tract of land comprising rugged hills and mountains that reach 2,800 metres above sea level in some places. This landscape is largely bare, although remnant indigenous vegetation exists in alpine areas and in many of the river gorges. Some of the land is used for extensive pastoral farming. Due to vegetation clearance that has occurred, the biophysical aspects of this area are somewhat diminished; however, its bold landform, characterised by

underlying geology, geomorphology and natural erosion processes, is typical of high country areas.

The Marlborough Sounds

The Marlborough Sounds display a unique combination of landforms formed by drowned river valleys, resulting in a highly fractured coastline with numerous offshore islands. Shaped largely by physical and climatic influences, the Marlborough Sounds include very

steep to moderately steep dissected coastal hills and a mixture of vegetated and cleared mountain slopes. Some parts of the Marlborough Sounds are modified through agricultural, forestry and residential land uses and aquaculture activities in the coastal marine area. A number of significant Māori and European historic and cultural elements also contribute to this landscape.

The East Coast

From Rarangi in the north to Willawa Point on the Kaikoura Coast, the east coast of Marlborough provides a variety of landforms. In the north, the coastal environment comprises a sequence of dunes and swales moving inland, although these features have been modified by agricultural and residential activities. There are two significant river mouths - the Wairau and Awatere rivers - and two significant saline lagoons - Vernon Lagoons and Lake Grassmere. Salt is harvested from Lake Grassmere. The remainder of the coastline is rugged and relatively inaccessible. From Cape Campbell south, this coastline is characterised by dramatic limestone features.

The presence of water, in terms of lakes, rivers, wetlands or the sea, makes a significant contribution to the overall landscape and any reference to landscape within the Marlborough Environment Plan (MEP) includes reference to these water environments.

It is important to recognise that there is significant diversity in landscape within the broad areas identified above. This diversity is partly a response to variation in geological and ecological processes. Human activity has also had a considerable effect on our landscape over time, while current land use continues to influence the landscape character of Marlborough. Because the underlying human and natural processes are subject to change and evolution, landscapes are dynamic systems.

Issue 7A – Resource use and changes in resource use can result in the modification or loss of values that contribute to outstanding natural features and landscapes and to landscapes with high amenity value.

The use and development of natural and physical resources has always played an important role in sustaining Marlborough communities. The landscape within which this resource use occurs also makes a significant contribution in this regard. For Marlborough's tangata whenua iwi in Marlborough, particular features within the landscape are taonga. The wider community enjoys and values the landscapes that exist within the Marlborough Sounds, Richmond Ranges, in the Wairau and Awatere River valleys and in the mountainous interior. Our landscapes collectively make a significant contribution to our wellbeing and help provide us with a Marlborough identity.

The use and development of natural and physical resources changes the landscape. This can take several forms, such as: the introduction of built form where there is currently none or where it is introduced into prominent locations; the introduction of colour contrasts those in the existing landscape; or the introduction or removal of vegetation that affects pattern and texture within the landscape. Landscape change can occur at a range of scales and timeframes, be they site-specific or broad scale, immediate or incremental and potentially cumulative.

Not all change in the landscape will result in a loss of landscape values. In fact, some changes have enhanced landscape values. An example of this is the indigenous revegetation in the Marlborough Sounds. Other landscapes are a direct result of resource use. For example, the conversion of pastoral land to viticulture in the river valleys has created a landscape of structure, seasonal colour contrast and colour contrast with the surrounding landscape. These examples demonstrate the dynamic nature of our landscape.

Although our landscape is dynamic and will continue to change in response to future resource use, there are some landscapes that the community values above others. The importance of

these significant landscapes and the contribution they make to community wellbeing is recognised by the RMA. The value placed on our significant landscapes means that they are often more sensitive to change.

Issues can arise where the effects of resource use, especially the subdivision, use and development of land result in the loss or degradation of the values fundamental or integral to a landscape being considered significant. As the community gains economic wellbeing from the productive use of natural and physical resources, it can be challenging to balance this against the need to retain the values that contribute to our significant landscapes. Judgements are therefore required to determine appropriate development within our significant landscapes.

[RPS]

Objective 7.1 – Identify Marlborough's outstanding natural features and landscapes and landscapes with high amenity value.

Identification of the nature and extent of outstanding natural features and landscapes and landscapes with high amenity value allows the application of appropriate management mechanisms. The identification process is a complex task, given the dynamic nature of Marlborough's landscapes as well as the diverse range of values that contribute to Marlborough's landscape character and the variation in the sensitivity of these values to change. In addition, our perception of landscape varies widely depending on our own culture and life experience. In this context, it is very important to identify those values that make particular landscapes significant.

[RPS]

Policy 7.1.1 – ~~When assessing~~Identify and assess the characteristics and values of Marlborough's landscapes, using the following criteria ~~will be used~~:

(a) biophysical values, including geological, topographical, hydrological, and ecological elements;

(b) expression of natural and formative processes;

~~(b)~~(c) sensory values, including aesthetics, natural beauty and visual perception; and

~~(c)~~(d) associative values, including cultural and historic values and landscapes that are widely known and valued by the immediate and wider community for their contribution to a sense of place.

Multiple values contribute to landscape. Primarily, landscape is the expression of natural processes and human activity in and on the land. However, it is also a function of how people perceive the results of this interaction. Those values considered relevant in a Marlborough context are identified in (a) to (c) of the policy. Landscapes may have one or more of these values. The criteria are derived from national and international landscape assessment criteria. More detail on what constitutes the values in (a) to (c) and how the values are assessed is included within the report "Marlborough Landscape Study August 2015" undertaken by expert landscape consultants. The Council will use these values as the basis of any assessment of landscape.

[RPS]

Policy 7.1.2 – Define the boundaries of significant landscapes using the following methods:

(a) land typing;

(b) contour line;

(c) contained landscape features;

(d) visual catchment; and/or

(e) land use.

The identification of significant landscapes requires the extent or boundary of these significant landscapes to be identified. This policy identifies the methods that will be used to establish the boundaries, as follows:

Comment [N2]:
The policy does not identify that ONL analysis incorporates 2 steps: a) identification of the landscape values and characteristics and b) a value assessment of those.

The chapeau only refers to values. It should also refer to characteristics. This provides a focus on the natural, intrinsic elements of the landscape. Values are typically interpreted to focus on the anthropocentric elements of the landscape.

Further and more specific criteria are required for the policy to give effect to Pol 15 NZCPS.

- Land typing: uses a change in landform to establish a boundary at and following the edge of the landform.
- Contour line: uses a specific contour line(s) to establish a boundary.
- Contained landscape feature: uses an enclosed area of land around a landscape feature, such as an island.
- Visual catchment: uses ridgelines and spurs to establish a boundary.
- Land use: uses a variation in land use to establish a boundary.

The method to be used will depend on the values that contribute to the landscape and how they are expressed in the landscape.

[RPS]

Policy 7.1.3 – ~~Assessment of the values in~~Identification and assessment under Policy 7.1.1 and Policy 7.1.2 will determine:

(a) whether a landscape is identified as an outstanding natural feature and landscape in terms of Section 6(b) of the Resource Management Act 1991;

~~(b) whether the landscape has high amenity value in terms of Section 7(c) of the Resource Management Act 1991; or~~

~~(c) where landscape values are not sensitive to change.~~

Comment [N3]:
The intention of the policy is to identify the outcome of the identification and assessment process. That process is set out in policies 7.1.1 and 7.1.2 so both should be referenced here.

Just because a landscape is not identified as 'sensitive landscape' in the PMEP does not mean it is not sensitive to change. It means that it is less sensitive to change than those areas.

Once an assessment of a landscape has been undertaken based on the values identified in Policy 7.1.1, a determination will be made as to whether the landscape values are significant enough for the landscape to be considered outstanding in the context of Section 6(b) of the RMA. If a landscape is considered to exhibit exceptional or very high biophysical, sensory and/or associative values, then it will be identified as an outstanding natural landscape. Outstanding natural features can also be included within this assessment.

There are also landscapes in Marlborough that, although their values are not as significant as those for an outstanding natural feature or landscape, can still make a significant contribution to the appreciation and quality of our environment. A range of sensory values can contribute to the amenity of these landscapes, including scenic beauty, coastal character, dramatic or attractive natural features within the landscape and the openness or naturalness of the landscape. Where these sensory values are collectively considered to be high, the landscape can be categorised as a landscape with high amenity value.

Controls will apply to both of these landscapes, as set out in subsequent policy. Landscapes not identified as being sensitive to change will not be subject to specific management for landscape outcomes.

[RPS, R, C, D]

Policy 7.1.4 – Landscapes that meet the criteria to be identified as an outstanding natural feature and landscape, or landscapes with high amenity value~~,~~ where those values are more sensitive to change:

(a) are specifically identified on the Landscape Overlay; and

(b) the specific values associated with the identified landscapes are set out in Appendix 1 of Volume 3 of the Marlborough Environment Plan.

Comment [N4]:
It is not clear whether the sentence "where those values are more sensitive to change":

a. Means that a larger number of landscapes were assessed as qualifying as 'amenity landscapes' but not mapped; or
b. Is identifying that amenity landscapes have been identified because they do not qualify as ONL but exhibit values and characteristics that are more important and sensitive than other areas and so require protection.

If (a) is correct this is opposed. Mapping is a separate and prior process to management. If an area qualifies as a s7 amenity landscape then it should be mapped as such in the Plan.

Those landscapes that are an outstanding natural feature or landscape will be identified (and mapped) in the MEP. For the coastal environment particularly, this policy helps to give effect to Policy 15(d) of the New Zealand Coastal Policy Statement 2010 (NZCPS), which requires regional policy statements and plans to map or otherwise identify areas that need protection. For those landscapes identified as having high amenity value, only landscapes that are more sensitive to change have been identified. The two specific areas considered sensitive to change are the Marlborough Sounds Coastal Landscape and the Wairau Dry Hills Landscape.

Mapping makes it clear to resource users where Marlborough's significant landscapes are located. Additionally, the values that make these landscapes significant are described in Appendix 1. These values should be considered when resource consent applications are made and decided upon including the extent to which they may be affected by a particular use or development.

[RPS, R, C, D]

Policy 7.1.5 – Refine the boundaries of outstanding natural features and landscapes and landscapes with high amenity value in response to:

(a) landscape change over time; or

(b) more detailed assessment of landscape values by Council.

Comment [N5]:
Greater clarity is required that the policy is not intended to open the door for re-litigation of the PMEP mapping on a case by case basis.

Although it is intended to identify Marlborough's outstanding natural features and landscapes and landscapes with high amenity value, landscape is also dynamic and is constantly changing. Change may occur quickly as a result of land use change or a catastrophic event (e.g. earthquake) or slowly as a result of natural processes (e.g. indigenous revegetation). Where landscape change occurs over time or where there is a more detailed assessment of landscape values at a particular site, it may be necessary to refine the boundaries of the identified outstanding natural features and landscapes and landscapes with high amenity value. Any changes to the boundaries of these identified landscapes will have to pass through the First Schedule process of the RMA.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[RPS]

7.M.1 Identifying Marlborough's outstanding natural features and landscapes and landscapes with high amenity value that are sensitive to change

An extensive assessment of Marlborough's landscapes was undertaken in 2009 by professional landscape consultants. This assessment identified Marlborough's outstanding natural features and landscapes as well as those landscapes with high amenity value. After consultation with landowners (including site visits where requested by landowners, resource users and the community), those landscapes that meet national and international criteria for significance have been identified in the MEP. Appendix 1 of the MEP also identifies the values (as listed in Policy 7.1.1) that make each landscape significant.

[RPS, R, C, D]

7.M.2 Information

The Council has made available information on Marlborough's diverse landscape character and the results of any evaluation of landscape significance (following consultation with relevant landowners). This will be a useful reference document generally, but can also be used by resource consent applicants to assist in any assessment of adverse effects on landscape values.

[RPS, R, C, D]

Objective 7.2 – Protect outstanding natural features and landscapes from inappropriate subdivision, use and development and maintain and enhance landscapes with high amenity value.

Section 6(b) of the RMA requires the Council to protect outstanding natural features and landscapes from inappropriate subdivision, use and development, while Section 7(c) of the RMA requires the Council to have particular regard to the maintenance and enhancement of amenity values. This objective reflects these statutory obligations and recognises the significant contribution of landscape to community wellbeing. Protecting the biophysical, sensory and

associative values that contribute to our significant landscapes means that locals and visitors alike can continue to appreciate this important part of Marlborough's identity, character and environment.

It is important to acknowledge that the landscape management mechanisms that stem from this objective do not anticipate that there will be no landscape change. Rather, the objective focusses on determining what is appropriate resource use and development in relation to the values that make the landscape significant.

[R, C, D]

Policy 7.2.1 – Control activities that have the potential to degrade ~~those~~ the characteristics and ~~values contributing to outstanding natural features and~~ of sensitive landscapes ~~landscapes~~ by requiring ~~activities and structures to be subject to a comprehensive assessment of effects on landscape values through the resource consent process~~consent applications to address:

(a) the potential adverse effects on the characteristics and values of the landscape.

(b) How the Chapter 7 policies will be achieved and taking into account:

- **(a) The location, scale and design of the proposed activity.**
- **(b) The extent of anthropogenic changes.**
- **(c) The presence of absence of structures, buildings or infrastructure.**
- **(d) The temporary or permanent nature of adverse effects.**
- **(e) The physical and visual integrity of the area, and the natural processes of the location.**
- **(f) The intactness of any areas of significant vegetation and vegetative patters.**
- **(g) The physical, visual and experiential values that contribute significantly to the wilderness and scenic value of the area.**
- **(h) The integrity of landforms, geological features and associate natural processes.**

The natural characters and qualities that exist or operate across land and water and between freshwater bodies and coastal water bodies.

One of ways in which the Council is to fulfil its statutory obligations with respect to landscape is to control inappropriate subdivision, use and development through regional and district rules. Because some of Marlborough's natural features and landscapes have been identified as having outstanding value, it is important that activities in these areas are assessed through the resource consent process to determine whether the activity will have an adverse effect on landscape values. The activities to be controlled vary between each outstanding natural feature and landscape as the values that contribute to the significant landscape, and the sensitivity of these values to change, will differ from place to place. For example, the threats to landscape values in the coastal environment could be different to those in the mountainous interior. Appendix 1 of the MEP identifies the values that make each outstanding natural feature and landscape significant. The MEP will also contain the regional and district rules.

[D]

Policy 7.2.2 – Control activities that have the potential to degrade the amenity values that contribute to the Wairau Dry Hills Landscape by:

- **(a) setting permitted activity standards that are consistent with the existing landscape values and that will require greater assessment where proposed activities and structures exceed those standards; and**
- **(b) requiring resource consent for commercial forestry activities.**

The Wairau Dry Hills Landscape is more sensitive to change than other landscapes with high amenity value as it forms the visual backdrop to Blenheim and the Wairau Plain, providing an attractive contrast to the valley floor. (The specific values that are present within this landscape are set out in Appendix 1 of the MEP.) While most landscapes identified as having high amenity value have a non-regulatory approach as the means of maintaining and enhancing landscape

Comment [N6]:
This provision should apply to ONLs and amenity landscapes. How activities in each type of landscape will be controlled will depend on the rules that apply. The severity of assessment and restriction will differ. An assessment of amenity landscapes is required to ensure that they are maintained and enhanced in accordance with s6 RMA and Objective 7.2 PMEP.

The relationship between Policy 7.2.1 and Policy 7.4.2 is not clear. Both direct the content of consent applications in slightly different ways. More direction is required as to how this is to be undertaken. The proposed amendments aim to incorporate the two policies and provide greater direction in a manner that does not conflict with the chapter's other provisions.

value, for the Wairau Dry Hills landscape a regulatory approach is considered more appropriate in order to fulfil statutory obligations under Section 7(c) of the RMA. Only one activity, commercial forestry, needs to be assessed through the resource consent process, as it could have a significant adverse effect on the landscape values of this area. The use of standards for permitted activities is considered appropriate for other activities in order to manage effects on landscape values, as resource use and development is generally to be expected within this landscape.

[C, D]

Policy 7.2.3 – Control activities that have the potential to degrade the amenity values that contribute to those areas of the Marlborough Sounds Coastal Landscape not identified as being an outstanding natural feature and landscape by:

(a) using a non-regulatory approach as the means of maintaining and enhancing landscape values in areas of this landscape zoned as Coastal Living;

(b) setting standards/conditions that are consistent with the existing landscape values and that will require greater assessment where proposed activities and structures exceed those standards; and

(c) requiring resource consent for commercial forestry activities.

Similar to the Wairau Dry Hills Landscape, the Marlborough Sounds Coastal Landscape is more sensitive to change than other landscapes with high amenity values. The Marlborough Sounds is an iconic and unique landscape with considerable scenic beauty. While some parts of the Sounds have more significant values than others, in its entirety the Sounds has considerable landscape value, which is why the whole of the Sounds have been included within the Marlborough Sounds Coastal Landscape. However, the areas subject to the management framework of this policy are those not identified as an outstanding natural feature and landscape.

Because the Marlborough Sounds is subject to development pressure for a range of subdivision, use and development, it is appropriate to control these activities through a range of means. For those areas zoned Coastal Living, there has already been a degree of modification to landscape values and in these areas a non-regulatory approach is considered appropriate to manage further landscape impacts. The remaining areas within the Marlborough Sounds Coastal Landscape have a management approach that includes standards for permitted activities and conditions on consent for controlled activities, as it is expected that there will be some resource use within these areas. The one exception is a discretionary activity resource consent requirement for commercial forestry to ensure that this activity can be assessed for its impact on the landscape values identified in Appendix 1.

~~[R, C, D]~~
~~Policy 7.2.4 – Where resource consent is required to undertake an activity within an outstanding natural feature and landscape or a landscape with high amenity value, regard will be had to the potential adverse effects of the proposal on the values that contribute to the landscape.~~

~~Where it is proposed that an activity will take place in an outstanding natural feature and landscape or in a landscape with high amenity value, it is appropriate that an assessment of the impact of the proposal on these significant landscapes is carried out. To undertake the assessment, regard must be had to the values that contribute to the outstanding natural feature and landscape or a landscape with high amenity value as identified in Appendix 1 of the MEP. The level of assessment should reflect the scale of the proposed activity and the potential adverse effects on the values that contribute to the landscape.~~

[R, C, D]

Policy 7.2.5 – Avoid adverse effects on the characteristics and values that contribute to the outstanding natural features and landscape~~s in the first instance. Where adverse effects cannot be avoided and the activity is not proposed to take place in the coastal environment, ensure that the adverse effects are remedied.~~

~~Where resource consent is required to undertake a particular activity in an outstanding natural feature or landscape, this policy provides a clear preference for avoiding adverse effects on the biophysical, sensory or associative values within the landscape.~~ This policy does not mean that there can be no new resource use within outstanding natural features or landscapes; rather, the use or development of natural and physical resources may be able to be undertaken in a way that adverse effects are avoided so that the quality and significance of the values is not diminished. ~~Alternatively, adverse effects may be able to be remedied through careful planning or remedial works. Policy 7.2.7 provides further guidance in this regard. The option of remedying adverse effects on landscape values does not apply to activities occurring within the coastal environment, as Policy 15 of the NZCPS requires that such adverse effects are avoided.~~

[R, C, D]

Policy 7.2.6 – Where the following activities are proposed to take place in an area with outstanding natural features and landscapes, then any adverse effects on the characterstics values of

Comment [N7]: This provision is opposed. Section 6 RMA does not distinguish between ONLs in the coastal environment and those that are not. Nor should the PMEP.

Comment [N8]: This provision provides an exception to Policy 7.2.5. Any exception should be very tightly focused to ensure that the integrity of ONLs is not compromised or degraded and to prevent perverse outcomes from the provision being relied on inappropriately. Any exception must be very clear that avoidance is preferred and as to its parameters: what activities are covered and what alternative action is allowed.

th~~ese~~ area should be preferentially avoided. If avoidance is not possible then adverse effects~~s~~ can be remedied or mitigated, ~~provided~~ only if the overall qualities and integrity of the wider outstanding natural feature and landscape are retained:

- **(a) activities involving the development and operation of regionally significant infrastructure;**
- **(b) activities that enhance passive recreational opportunities for the public where these are of a smaller scale; and**
- **(c) activities involving the development and operation of renewable electricity generation schemes within Marlborough where the method of generation is reversible.**

This policy relaxes the direction provided by Policy 7.2.5 for outstanding natural features and landscapes in limited circumstances. These circumstances are described in (a) to (c) and reflect the considerable benefits that the listed activities provide to the social and economic wellbeing, health and safety of our community.

Regionally significant infrastructure is essential to allowing our communities to function on a day-by-day basis. This infrastructure may need to be expanded in the future and that expansion may need to occur in areas of outstanding natural features and landscapes. In respect of (b), many outstanding natural features and landscapes can already be accessed for passive recreational purposes and the RMA seeks to maintain and enhance these amenity values. Enhancement may take the form of new tracks or huts in the landscape, but would be of a small scale. The MEP seeks to optimise the use of the Marlborough's renewable energy and encourages the use and development of renewable electricity resources. This is recognised in (c) of the policy. However, (c) does not apply where the structures associated with the generation cannot be realistically removed from the environment with minimal trace, as any landscape effects in these circumstances are permanent. It is also important in consideration of this policy to acknowledge that the Council is required to give effect to the NPSREG, which sets out a framework to enable the sustainable management of renewable electricity generation.

The policy does not allow the activities in (a) to (c) to occur without consideration of the impact they may have on outstanding natural features and landscapes. Any adverse effects on the biophysical, sensory or associative values within the landscape must still be mitigated as much as possible. As adverse effects can occur at various scales, there should also be consideration of the impacts of the proposed activity on the overall qualities and integrity of the wider outstanding natural feature or landscape. The policy requires that the overall quality and integrity of the landscape should be retained.

This policy does not apply to activities occurring in the coastal environment, as Policy 15 of the NZCPS requires that adverse effects of activities on outstanding natural feature or landscape be avoided.

[R, C, D]

Policy 7.2.7 – Protect the values of outstanding natural features and landscapes and the high amenity values of the Wairau Dry Hills and the Marlborough Sounds Coastal Landscapes by:

- **(a) In respect of structures:**
  - **(i) avoiding visual intrusion on skylines, particularly when viewed from public places;**
  - **(ii) avoiding new dwellings in close proximity to the foreshore;**
  - **(iii) using reflectivity levels and building materials that complement the colours in the surrounding landscape;**
  - **(iv) limiting the scale, height and placement of structures to minimise intrusion of built form into the landscape;**

(v) **recognising that existing structures may contribute to the landscape character of an area and additional structures may complement this contribution;**

(vi) **making use of existing vegetation as a background and utilising new vegetation as a screen to reduce the visual impact of built form on the surrounding landscape, providing that the vegetation used is also in keeping with the surrounding landscape character; and**

(vii) **encouraging utilities to be co-located wherever possible;**

(b) In respect of land disturbance (including tracks and roads):

(i) **avoiding extensive land disturbance activity that creates a long term change in the visual appearance of the landscape, particularly when viewed from public places;**

(ii) **encouraging tracks and roads to locate adjacent to slopes or at the edge of landforms or vegetation patterns and to follow natural contour lines in order to minimise the amount of land disturbance required;**

(iii) **minimising the extent of any cuts or side castings where land disturbance is to take place on a slope; and**

(iv) **encouraging the revegetation of cuts or side castings by seeding or planting.**

(c) In respect of vegetation planting:

(i) **avoiding the planting of new exotic forestry in areas of outstanding natural features and landscapes in the coastal environment of the Marlborough Sounds;**

(ii) **encouraging plantations of exotic trees to be planted in a form that complements the natural landform; and**

(iii) recognising the potential for wilding pine spread.

~~(iii)~~**(iv) Encourage indigenous forestry and recognize its co-benefits.**

Comment [N9]: The PMEP should encourage indigenous forestry and its co-benefits where it is compatible with the characteristics and values of ONLs.

The sensory values of outstanding natural features and landscapes are vulnerable to change brought about by resource use. The introduction of new structures, tracks and roads into the landscape, and the planting of new vegetation, all have the ability to affect our visual perception and appreciation of the landscape. Although not an exhaustive list, this policy describes how the visual integrity of the landscape can be maintained in response to changes in resource use. The subdivision of land can act as a pre-curser to such changes, so it is also appropriate to have regard to this policy when considering subdivision consent applications.

The matters in (a) to (c) guide how visual intrusion into significant landscapes can be avoided, remedied or mitigated. These mostly relate to undertaking land use activities in ways that limit the visual intrusion into the landscape. These actions will be implemented through a range of activity status as well as standards on permitted activity rules. Policy 7.2.1 provides guidance on how these controls will be applied to outstanding natural features and landscapes. For landscapes with high amenity value, guidance is provided through Policies 7.2.2 and 7.2.3.

This policy cannot apply to existing land use activities that have been lawfully established due to existing use rights under Section 10 of the RMA.

[C, D]

Policy 7.2.8 – Recognise that some outstanding natural features and landscapes and landscapes with high amenity value will fall within areas in which primary production activities currently occur.

In some areas where outstanding natural features and landscapes and landscapes with high amenity values have been identified in the MEP, there are a range of primary production activities taking place.

Some landscapes, especially south of the Wairau River, are a product of past and present extensive pastoral farming. In this situation, the continuation of such pastoral farming is not anticipated to threaten the biophysical, sensory or associative values that contribute to landscape significance. This will be reflected in the status of regional and district rules that apply in identified outstanding natural features and landscapes and landscapes with high amenity value in rural areas. Existing land uses within these areas will also have existing use rights under Section 10 of the RMA.

Primary production activities currently also occur in the Marlborough Sounds in locations identified within the MEP as having landscape significance. Rules applying to land uses do require consent for new commercial forestry activity and land disturbance over certain limits. However given the existing use rights under Section 10 of the RMA, existing land-based primary production activity, even within an area of landscape significance, can continue to take place.

[R, C, D]

Policy 7.2.9 – When considering resource consent applications for activities in close proximity to outstanding natural features and landscapes, regard may be had to the matters in Policy 7.2.7.

The extent of outstanding natural features and landscapes are identified in the MEP. Establishing a boundary beyond which values no longer contribute to landscape significance is difficult. For this reason it may be appropriate to assess the impacts on landscape values for activities outside of, but in close proximity to, an identified outstanding natural feature or landscape. Application of this policy will be determined on a case-by-case basis, depending on the nature of the proposal and its proximity to the outstanding natural feature or landscape.

[D]

Policy 7.2.10 – Reduce the impact of wilding pines on the landscape by:

(a) supporting initiatives to control existing wilding pines and limit their further spread; and

(b) controlling the planting of commercial wood species that are prone to wilding pine spread.

(c) Use consent conditions to require forestry operations to remove wilding pines within 1km of the designated forestry boundary and to cover the cost of removing wilding pines at a greater distance that have emanated from that operation.

~~(b)~~(d) Using consent conditions to require wilding removal as part of subdivision.

Comment [N10]: Wilding pines are a significant issue. MDC should not limit the tools it has available to leverage removal. Use of the polluter pays principle is appropriate. A similar approach is taken in the Mackenzie District.

The ability of pine trees to spread from commercial plantations, soil conservation plantings, rural shelterbelts and isolated plantings is well documented in Marlborough. As pines spread, they alter the landscape due to their visual dominance and colour contrast. In addition, where forests have been harvested but not replanted there is the potential for rapid growth of wilding seedlings, creating more unmanaged sources of wilding pine spread. Many in the community believe that these landscape changes are unacceptable and some locals have initiated control programmes in an effort to reduce the presence of wilding pines in the landscape and limit their spread to other areas. These efforts are to be supported as a means of effective landscape protection. Additionally, there are certain species of tree grown for commercial wood production that are more prone to wilding pine spread. Controls on planting certain species will assist to reduce the risk of wilding pine spread and therefore reduce impacts on landscape values.

[D]

Policy 7.2.11 – Liaise with the Department of Conservation regarding any landscape issues on land administered by the Department and identified as having outstanding natural features and landscapes (including within the Marlborough Sounds Coastal Landscape).

A significant proportion of outstanding natural features and landscapes occur on Crown land administered by the Department of Conservation. Because this land is managed for conservation purposes and is not likely to attract development, there are fewer threats to the biophysical, sensory and associative values in these landscapes compared to those areas with outstanding natural features and landscapes on privately owned land. However, that is not to say that

potential threats do not exist. For example, applications can be made to operate concessions within areas administered by the Department and vegetation change can occur as a result of pest plant incursions (including wilding pines, broom and gorse). The Council will liaise with the

Department on an ongoing basis to discuss landscape issues as they arise and to develop and implement appropriate management responses.

[R, C, D]

Policy 7.2.12 – Encourage landowners and resource users to consider landscape qualities in the use or development of natural and physical resources in landscapes with high amenity value.

The primary means of maintaining and enhancing landscapes with high amenity value is through non-regulatory methods, except in the Wairau Dry Hills and Marlborough Sounds Coastal Landscapes where a management framework for a range of activities is set out in Policies 7.2.2, 7.2.3 and 7.2.7. Other landscapes with high amenity values have not been identified in the MEP, as these landscapes are usually located in remote areas or areas where sensory values are not under any critical threat. Nonetheless, it may appropriate to consider landscape qualities in these areas as part of a resource consent application.

Comment [N11]:
This policy is opposed. A requirement to "encourage" is weak. MDC should be taking a more active stance on managing areas with high amenity values to ensure that they are maintained or enhanced as required under s7. Relying on resource users to ensure that those values are appropriately respected as a result of MDC encouragement is not sufficient to ensure maintenance and enhancement will be achieved.

More directive and comprehensive policy direction is required.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[R, C, D]

7.M.3 District and regional rules

As necessary, apply district or regional rules to activities that have the potential to threaten identified values that contribute to the landscape character of outstanding natural features and landscapes. Rules may also be required to maintain and enhance the Wairau Dry Hills Landscape and the Marlborough Sounds Coastal Landscape. The status of activities will depend on the severity of the threat and range from permitted activity standards through to prohibited activities. Activities to be regulated include:

- *subdivision;*
- *erection and placement of structures, especially location, scale, density and appearance;*
- *land disturbance;*
- *indigenous vegetation removal;*
- *commercial forestry; and*
- *the planting of certain species of exotic tree.*

[R, C, D]

7.M.4 Guidelines

The Council will provide guidelines to help landowners and resource users to avoid, remedy or mitigate the adverse visual effects of development on landscape values. Guidelines for forest harvest activities and new structures will be priorities for development. These guidelines are intended to encourage landowners and resource users to consider landscape qualities when using or developing natural and physical resources. This may result in improved recognition of the landscape within which the resource use or development is proposed to occur and therefore improved (harvest or structure) design from a landscape perspective. In this way, the guidelines will assist with the implementation of the regulatory methods and are complimentary to these methods.

[D]

7.M.5 Colour palette

A colour palette had been developed to help protect, maintain and enhance landscapes in the Marlborough Sounds and south Marlborough. By contrasting and detracting from the colours

present in the natural environment, built structures have the potential to adversely impact on the visual qualities and natural characteristics of landscape areas. To minimise this potential, colour palettes will help to integrate new buildings (or the repainting of existing buildings) into the landscape through the use of appropriate colour hues, tonalities and reflectivity.

The colour palette does not form part of any rule framework; however, a number of landowners within the significant landscape areas, particularly those in the Marlborough Sounds, have used the colour palette in guiding choices about repainting of dwellings. The colour palette can be downloaded from the Council's website.

[D]

7.M.6 Incentives

Consider providing rates relief where landscape protection is formalised by way of covenant or similar methods of protection.

Consider providing funding to wilding pine control programmes and other community initiated control programmes for undesirable plants and animals.

[D]

7.M.7 Investigation

Undertake research into alternative forestry and land use options available to pine forest owners in the Marlborough Sounds. The investigations should include how best to manage the transition from pine plantations to the chosen alternatives in a manner that minimises landscape effects, especially those caused by wilding pines.

[RPS, R, C, D]

7.M.8 Information

Make available background information on Marlborough's diverse landscape character, particularly through Appendix 1, which identifies the values of Marlborough's significant landscapes.

Provide forest owners in the Marlborough Sounds with information on alternative forestry options and alternative land uses so that they can make informed decisions regarding succession planning leading up to and upon the harvesting of existing pine forests.

Provide the community with information on effective control practices for wilding pines.

[RPS, R, C, D]

7.M.9 Advocacy

Advocate for increased guidance to be provided at a national level for assessing the adverse effects of resource use and development on landscape values.

Anticipated environmental results and monitoring effectiveness

The following table identifies the anticipated environmental results of the landscape provisions of the MEP. The anticipated environmental results are ten year targets from the date that the MEP becomes operative, unless otherwise specified. For each anticipated environmental result, a series of indicators will be used to monitor the effectiveness of the landscape provisions.

Anticipated environmental result	Monitoring effectiveness
7.AER.1	
Marlborough's outstanding natural features and landscapes and landscapes with visual amenity value are protected from degradation.	Outstanding natural features and landscapes and landscapes with high amenity value are included within the MEP. This will include the identification of values that make each landscape significant and mapping of the extent of the significant landscapes. The awareness of Marlborough's outstanding natural features and landscapes and landscapes with high amenity value increases, as measured by public perception survey. The biophysical, sensory and associative values that contribute to the significance of particular landscapes are maintained (or enhanced), as measured by reassessment of Marlborough's landscape. Only appropriate development is allowed to occur in outstanding natural features and landscapes, as measured by reassessment of Marlborough's landscape. The area of land vegetated by wilding pines in the Marlborough Sounds decreases.

ANNEXURE 2.G

EDS reasons and relief in comment boxes and/or track-changes.
EDS also seeks any consequential relief, including to the PMEP rules, necessary to respond to the issues raised and give effect to the changes sought.
Provisions not specifically commented on are supported (subject to the changes sought).
Referenced cases:
Royal Forest & Bird Protection Society v Buller District Council [2013] NZHC 1346

8. Indigenous Biodiversity

Comment [N1]:
Chapter 8 does not identify which planning document each provision falls under. This is confusing and makes it difficult to assess the relationship between the different provisions. This needs to be addressed.

Introduction

New Zealand's biodiversity gives our country a unique character and is internationally important. A large proportion of our species are endemic to New Zealand and if they become extinct they are lost to the world. About 90 percent of New Zealand insects, 80 percent of trees, ferns and flowering plants, 25 percent of bird species, all 60 reptile species, four frog species and two species of bat are endemic.

New Zealand's biodiversity has helped shape our national identity, with our distinctive flora and fauna contributing to our sense of belonging. The koru and kiwi are internationally recognised. Biodiversity also provides social and economic benefits through recreational opportunities, tourism, research, education, provision of ecosystem services and natural resources for primary industry and customary and medical uses.

The Resource Management Act 1991 (RMA) requires the Council to recognise and provide for as a matter of national importance the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna (Section 6(c)). The protection of these values, whether on land, in freshwater or coastal environments, also helps to achieve other matters of national importance, including landscape and natural character values and historic heritage. However, biodiversity values are also important components of amenity, kaitiakitanga, quality of the environment and ecosystem values, matters to which regard shall be had in terms of Section 7 of the RMA. For this reason there are important links between the provisions of this chapter and others in the Marlborough Environment Plan (MEP).

In addition, there are specific roles and functions in relation to protecting significant natural areas and habitats and maintaining indigenous biological diversity. These functions enable the Council to:

- establish, implement and review objectives, policies and methods for maintaining indigenous biological diversity [Section 30(1)(ga)]; and
- control any actual or potential effects of the use, development or protection of land for the purpose of maintaining indigenous biological diversity [Section 31(1)(b)(iii)].

The New Zealand Coastal Policy Statement 2010 gives specific direction on how protection and management of indigenous biodiversity is to be achieved in the coastal and marine environments.

Comment [N2]:
The introduction sets out the statutory context for protection and management of indigenous biodiversity. It does not refer to the NZCPS. The NZCPS is a critical part of the statutory context and drives a number of Chapter 7's provisions. It should be addressed in the introduction.

Marlborough's central location within New Zealand and its varied landforms, climate and rich human history combine to form an interesting and diverse area. The District has a range of important and unusual natural features, native plants and animals, a number of which are at their southern or northern limits of distribution. Part of south Marlborough has been identified as one of five areas of high biodiversity concentration within New Zealand.

Importantly, Marlborough's tangata whenua iwi have a significant interest in the protection, management and restoration of indigenous biodiversity, having developed relationships based on whakapapa, mahinga kai and kaitiakitanga developed over centuries of occupation, close interaction and use of natural resources. Whakapapa provides the links or connections between people and all things, including plants and animals. Mahinga kai is based on the sustainable

gathering of food and resources, the places where they are gathered, the resources themselves and the passing on of knowledge about these resources. Kaitiakitanga is a responsibility to ensure that the mauri of natural resources is healthy and strong and that the life supporting capacity of these ecosystems is preserved.

Although the focus of the RMA is on indigenous biodiversity, it is important to recognise that some parts of Marlborough have been modified as a result of a variety of land uses over many years. As has occurred throughout New Zealand, Marlborough's natural environment has been highly modified from that which would have existed prior to human arrival. This has resulted in a range

of non-indigenous species, which have in their own right made a significant contribution to amenity values in both urban and rural environments as well as to the character and economy of Marlborough. This is recognised in other chapters of the MEP. However, it is important to acknowledge that the remaining areas of indigenous biodiversity still contribute significantly to Marlborough's heritage values.

Issue 8A – A reduction in the extent, diversity and condition of indigenous biodiversity in Marlborough.

Comment [N3]: The introduction and Issue 8A explanation both identify loss of diversity as a key issue faced in Marlborough. The Issue itself should too.

Despite the original diversity and uniqueness of Marlborough's biodiversity and natural areas, human activities have been particularly severe on Marlborough's sensitive landscape and ecosystems, especially in the terrestrial and freshwater ecosystems of lowland south Marlborough. A continuation of past trends will result in further loss of or deterioration in the condition of Marlborough's indigenous biological heritage. For Marlborough's tangata whenua iwi, this will impact on the mauri of natural resources.

Terrestrial and freshwater environments

Centuries of fire have created the present pattern of small, isolated remnants of natural vegetation. The dry climate and easy contours of most of this land have meant that fires were very effective in clearing vegetation. Very few original areas of native forest remain in south Marlborough – most are secondary vegetation that has regenerated after the earliest fires. Further intensive clearance of shrub and tussock subsequently removed most of the remaining vegetation.

North Marlborough has a moister climate and steeper terrain than south Marlborough and has been less modified by human arrival. A significant amount of original forest cover remains and vigorous native regeneration is well underway on land that was cleared for pastoral farming from 1850 to 1940.

High populations of exotic wild animals and introduced plants have become well established in Marlborough because of the favourable climate, terrain and land-use. These introduced species have added further pressure on natural habitats. As a result of habitat loss and competition and predation from introduced animals, the original indigenous animals have also largely disappeared; only a few of these species remain in isolated remnant habitats. These habitats are often too small and too far from other sites in the locality to support significant and sustainable populations of native species, including birds, invertebrates and lizards.

The ecology of ground water is a relatively new area of investigation. Aquifers are now known to provide a habitat that can support a subterranean ecosystem. Species of crustaceans have adapted and evolved to live and complete their entire lifecycle underground. It is possible that these species may have a role in maintaining underground water quality. To date, little is known of the distribution of densities or even what species are present in our groundwater aquifers.

Many of the small streams and waterways on the Wairau Plain, including the largest river in Marlborough, the Wairau River, have been straightened, diverted and channelled over the last 150 years in order to control flooding and enable increased agricultural production. Native riparian or riverside vegetation has been largely replaced by exotic willows and shrubs. These modifications have resulted in the loss of native fish species that rely on native invertebrates falling onto the water for food.

With intensification of lowland land-use, particularly for viticulture, the demand for water for irrigation purposes has been significant. In the naturally dry landscape of these lowland areas, taking or diverting water from surface and groundwater sources can result in the loss of habitat as headwaters of spring-fed streams recede or waterways dry up altogether. The increasing use of dams to capture and store water also has the potential to have both negative (e.g. preventing fish passage) and positive effects (e.g. creation of new habitat) on natural areas and biodiversity.

Wetlands

The term wetland covers habitats where the land is covered in or wetted by water for most (but not necessarily all) of the time. Wetlands occur in areas where surface water collects or where groundwater seeps to the surface. They include swamps, bogs, coastal wetlands, lakes and some river edges.

Wetlands are highly productive environments that can support a diverse range of plants and animals (birds, fish, insects and micro-organisms). They support processes that provide environmental services such as water storage and flood control, nutrient removal, erosion control and water table maintenance. Wetland areas have always been highly valued by Māori as they provide a rich source of traditional resources like food (fish and birds), flax and medicinal plants. Wetlands therefore represent a significant part of Marlborough's natural heritage.

Between 1920 and 1980, most of New Zealand's wetlands were drained for pastoral land use. This has resulted in an approximately 85% reduction in wetland areas and many remaining wetlands are still under pressure from land development. Many remaining wetlands are small and their natural character and habitat quality have been degraded by partial drainage, damage by farm animals and weed invasion. Lowland wetlands have been worst affected and in some cases are still at risk.

The systematic draining of Marlborough's wetlands over the last 150 years has had a profound impact on aquatic ecosystems, especially in the lowland areas of the Wairau Plain. Less than one percent of the Wairau Plain wetlands that existed before Europeans arrived in New Zealand still exist. In addition, the taking of groundwater or surfacewater can affect the habitat and flow regimes of wetlands.

Marine environments

Marlborough supports a wide variety of marine habitats, ranging from exposed rocky shores to sheltered sandy bays. The coast is affected by a wide variety of physical and biological processes including tidal currents, wave energy, water clarity, substratum and temperature. Marlborough's geographic location influences these processes and as a result, our marine environment is one of the most interesting of any coastal areas in New Zealand, supporting a high diversity of species. Furthermore, Marlborough is an important part of the migratory route for several large marine mammals, including humpback and southern right whales. Other marine mammals live in Marlborough's marine environment, including the nationally endangered Hector's dolphin, which resides in Cloudy-Clifford Bays and Queen Charlotte Sound. Species such as dusky dolphins and orca regularly visit the Marlborough Sounds, while bottlenose dolphins are found here during most of the year.

Marlborough's marine environment supports a significant diversity of sea birds, most of which rely on the area for breeding, raising young or for feeding. Of particular note is the king shag, which is endemic to the Marlborough Sounds.

Tidal wetlands, although mostly small and widely spread throughout Marlborough, form an important network for mobile species of wetland bird. Larger estuaries do exist, including those at Whangarae (Croisilles Harbour), Havelock, Kaiuma and Wairau Lagoons. These larger estuaries provide habitat and feeding areas for a wide variety of fish, invertebrates and birds.

The condition and state of marine biodiversity can be affected by land or water based activities. Adverse impacts can arise from sedimentation, contamination and habitat disturbance. Effects can be temporary, but in particular circumstances can result in permanent loss or damage. Long term or cumulative smaller scale, localised effects from impacts such as contamination and physical disturbance can also have significant effects on the functioning of marine systems. Many activities, such as recreational swimming, do not affect or have an impact on marine biodiversity; however, other activities, including shipping (especially large and/or fast ships), reclamations or other coastal structures, marine farming and physical disturbance from certain fishing techniques can affect marine biodiversity.

There are also a variety of marine organisms that can be introduced by transport into our marine environment by ships (including the discharge of ballast water), oil rigs, barges and other boat. Regardless of whether or not these pest organisms are exotic, there is the potential for displacement of native species if the introduced organisms are not kept to a minimum. This could otherwise have a significant impact on Marlborough's indigenous biodiversity.

Despite the extensive length and physical size of Marlborough's coastline, many marine habitats and species are fragile and vulnerable to impact. The increasing use of the coastal environment for recreational, cultural and commercial activities leads to a corresponding increase in the potential for adverse effects on marine biodiversity. Unfortunately, it is difficult to determine all of the significant marine values due to the size of the area and difficulties associated with surveying subtidal marine areas, although techniques for assessing marine biodiversity are constantly improving and evolving.

Objective 8.1 – Marlborough's remaining indigenous biodiversity in terrestrial, freshwater, wetland, marine and coastal environments is protected.

Comment [N4]: It is not clear why marine and wetland environments have been excluded from Objective 8.1. Chapter 8 has 2 objectives which trigger policies applying specifically to wetland and marine environments. It is appropriate that the objective also identify these specific environment types so that there is a clear and consistent link between the provisions.

As there has been considerable loss of indigenous biodiversity in Marlborough, it is important that remaining areas are protected and that their condition is maintained and improved where opportunities arise. Protection in this context should be considered in a broad sense and may include legal protection as well as fencing, active pest control, regulation and improved land management practices. The inclusion of this objective helps to achieve the National Policy Statement for Freshwater Management 2014 (NPSFM), where for both water quantity and quality reasons the protection of the significant values of wetlands is required. This objective also helps to achieve the New Zealand Coastal Policy Statement 2010 (NZCPS) where there is specific direction to protect biological diversity in the coastal environment.

This objective also helps to protect indigenous biodiversity as an important component of Marlborough's natural heritage and gives recognition to central government's 'statement of national priorities' for protecting rare and threatened indigenous biodiversity on private land (June 2007). These priorities are:

National Priority 1:
To protect indigenous vegetation associated with land environments that have 20 percent or less remaining in indigenous cover.

National Priority 2:
To protect indigenous vegetation associated with sand dunes and wetlands; ecosystem types that have become uncommon due to human activity.

National Priority 3:
To protect indigenous vegetation associated with 'originally rare' terrestrial ecosystem types not already covered by priorities 1 and 2.

National Priority 4:
To protect habitats of threatened and declining indigenous species.

Matters of national importance in Section 6(a) and 6(c) of the RMA require the Council to recognise and provide for the preservation of the natural character of the coastal environment, wetlands, lakes, rivers and their margins, and the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. These matters help to protect biodiversity as important components of Marlborough's natural heritage.

Objective 8.2 – An increase in area/extent of Marlborough's indigenous biodiversity and restoration or improvement in the condition of areas that have been degraded.

While protection of remaining areas of indigenous biodiversity is important, so too is the restoration and re-establishment of some of what has been lost or degraded. Restoration means the active intervention and management of degraded biotic communities, landforms and landscapes to enhance biological character, ecological and physical processes. If restoration and re-establishment does not occur then indigenous biodiversity will remain seriously threatened and be vulnerable to further decline, especially in lowland southern Marlborough.

Given the important roles that wetlands can play and as many wetlands in Marlborough are in poor condition, it is important to improve their extent and condition. The creation of new wetlands will also help to increase the overall size and stock of wetland habitat in Marlborough.

It is acknowledged that in some hill country areas extensive natural regeneration has occurred and this has already helped to increase the extent of Marlborough's indigenous biodiversity. Although there is a natural ability of many species to regenerate given the right circumstances, some species cannot as they are too few in number, sometimes down to single individuals. In many cases, the propagation and replanting of plants is needed to establish a centre from which natural regeneration is possible.

Identification of sites, areas and habitats with significant indigenous biodiversity value

Policy 8.1.1 – When assessing whether wetlands, freshwater, coastal, marine or terrestrial ecosystems, habitats and areas have significant indigenous biodiversity value, the following criteria will be used:

(a) representativeness;

(b) rarity;

(c) diversity and pattern;

(d) distinctiveness;

(e) size and shape;

(f) connectivity/ecological context;

(g) sustainability; and

(h) adjacent catchment modifications.

Comment [N5]:
It is not clear why freshwater and coastal environments have been excluded from the policy. The same significant criteria will need to be applied to these environments.

Amendments to the criteria are also sought.

For a site to be considered significant, one of the first four criteria (representativeness, rarity, diversity and pattern or distinctiveness/special ecological characteristics) must rank medium or high.

To determine whether a site is significant for the purposes of Section 6(c) of the RMA, an assessment needs to be made by the Council or others against consistently applied criteria. The criteria identified in this policy (further explained in Appendix 3), have been used by the Council previously to identify and encourage opportunities for the conservation of natural features on private land in Marlborough and will enable assessments to be made in the future where none have occurred to date. The same criteria have also been used in identifying wetlands of significance in Marlborough and in identifying areas in the coastal marine area with significant indigenous biodiversity value.

Policy 8.1.2 – Sites in the coastal marine area and natural wetlands assessed as having significant indigenous biodiversity value will be specifically identified in the Marlborough Environment Plan.

Significant wetlands have been identified in the MEP because these small and fragmented areas are all that remain of the once vast areas of wetland that covered lowland Marlborough. It is important to ensure the values of the significant wetlands are protected. Areas that meet the

RMA's definition of a wetland but do not have significant values in terms of the criteria in Policy 8.1.1 have not been identified in the MEP and therefore are not subject to wetland rules.

Areas or habitats assessed as having significant ecological values within the coastal marine area have been specifically identified in the MEP and are referred to as 'ecologically significant marine sites'. This is because the coastal marine area is comprised of resources in public ownership, with the Council having a more direct role in managing these resources including in relation to areas with significant biodiversity value in terms of Section 6(c) of the RMA. Regulation and education will be the Council's main approach in protecting marine biodiversity.

Policy 8.1.3 – Develop an information database that:

(a) Uses the consent process to identify and map significant biodiversity areas in the terrestrial, freshwater and coastal environments.

(b) Collates information from different sources on the extent, condition and diversity of **indigenous** biodiversity in Marlborough.~~Having adequate information on the state of biodiversity in terrestrial, freshwater and coastal environments in Marlborough to enable decision makers to assess the impact on biodiversity values from various activities and uses~~.

Significant biodiversity areas in the terrestrial, freshwater, marine and coastal environments identified through the consent process will be incorporated into the MEP planning maps on two yearly basis through the Schedule 1 process.

Survey work on private land through programmes run by the Council and Department of Conservation has provided an overview of biodiversity in Marlborough. However, while many landowners have had their land surveyed as part of these programmes, not all land has been surveyed. Having adequate information about biodiversity values of waterbodies is equally important for decision makers when assessing the impacts of various activities and uses within waterbodies, as well as activities and uses on adjoining land.

For the coastal marine area, the Council has undertaken a review of published and unpublished reports to provide an overview of Marlborough's marine biodiversity. This information is available to the public but it is acknowledged that there are significant gaps in our knowledge. The Council will undertake surveys to improve knowledge of biodiversity patterns and condition.

Continuing to add to the knowledge of the extent, condition and use of biodiversity in Marlborough will be important in assisting decision making on resource consent or plan change applications, as well as for general awareness of the state of Marlborough's environment.

Protecting and enhancing indigenous biodiversity

Policy 8.2.1 – A variety of means will be used to assist in the protection and enhancement of areas and habitats with indigenous biodiversity value, including partnerships, support and liaison with landowners, regulation, pest management, legal protection, education and the provision of information and guidelines.

A variety of methods are necessary to achieve the protection and enhancement of areas and habitats with indigenous biodiversity value. Sometimes, simply fencing an area is the most effective means of protection and in this case, it is the Council's role to support landowners (including financially). In other cases, it may be appropriate that regulation is used. It is important to acknowledge, however that rules on their own do not protect important areas. The Council can also take an active role in enhancement activities, again through supporting landowners with education, the provision of information and guidelines and through working in partnerships.

Policy 8.2.2 – Use a voluntary partnership approach with landowners a tool~~as the primary means~~ **for achieving the protection of areas of significant indigenous biodiversity on private land, except for areas that are wetlands.**

Since 2000, the Council has undertaken a programme to identify and protect significant natural areas and indigenous biodiversity on private land in Marlborough. The Council has worked on the principle of a partnership approach, with landowners to achieve improvements in the protection of remaining significant natural areas. The rate of participation in this programme reflects the fact that most landowners want to protect unique ecosystems and species where they occur on their

Comment [N6]: This policy is poorly worded and its utility is unclear. Its framing is consistent with an objective – identifying a goal to be achieved – not with a policy. It does not identify a 'course of action'.

The PMEP maps significant biodiversity areas in the marine and wetland environments but nowhere else. A course of action to secure adequate information should focus on tools to collate information into an information data base. Those tools will be determined by MDCs resources and by the methods used to achieve protection and management (for example, consent requirements, information sharing).

Comment [N7]: The titlesd use to separate Policies 8.2.ff and Policies 8.3.ff and identify the purpose of each section are confusing. The provisions in Policies 8.2ff are very generic in nature and as a rule do not identify specific actions that must be taken but rather "encourage" or "promote" protection. It also includes provisions that do not appear to apply to s6 areas to which the direction to 'protect' applies (for example, P8.2.9). In contrast Policies 8.3.ff identify specific management actions some of which apply to significant areas and some to biodiversity more generally. Those provisions are directive. It is through these provisions that protection is actually achieved. Overall the provisions in the 2 sections are generally supported (subject to the amendments sought) but the ordering and allocation of each suite of policies is confusing and needs to be revisited.

Comment [N8]: Protection of significant areas is a matter of national importance and an environmental bottom line that the PMEP must recognize and provide for (***EDS v King Salmon***). This means the PMEP must set clear bottom lines that ensure activities are not of a scale or intensity that will compromise the ability of the environment to sustain itself. This is a regulatory action above which voluntary partnerships are critical. As worded the policy does not reflect this relationship.

properties. The programme includes support through a landowner assistance programme operating alongside the field survey work. The programme is funded by the Council, central government's biodiversity fund and landowners. This approach has allowed for property-based surveys to be carried out in cooperation with landowners.

The exception for wetlands reflects that these significant sites will be subject to a regulatory regime. This helps give effect to the NPSFM, where for both water quality and quantity purposes the significant values of wetlands are to be protected (Objective A2(b) and Objective B4). This approach also assists in recognising and providing for the preservation of natural character of wetlands as required by Section 6(a) of the RMA.

Policy 8.2.3 – When allocating Council support funding ~~P~~riority will be given to the protection, maintenance and restoration of habitats, ecosystems and areas that have significant indigenous biodiversity values, particularly those that are legally protected.

Those ecosystems, habitats and areas assessed as having significant indigenous biodiversity value are to be given priority in terms of their protection, maintenance and restoration. This policy recognises that a targeted approach to indigenous biodiversity is appropriate given that resources to assist landowners are limited. If the Council has to make decisions about which sites should be supported financially for protection works, those sites that have been legally protected through mechanisms such as covenants will be prioritised for funding support.

Comment [N9]: The intent of the policy is not clear. It does not identify how priority will be given and from what. Some of the detail in the explanation should be included in the policy.

This policy also gives recognition to central government's 'statement of national priorities' for protecting rare and threatened indigenous biodiversity on private land as set out in Objective 8.1. These priorities will potentially have a significant influence on the Council's future policy and programmes. A significant area of lowland Marlborough (i.e. the Wairau and Awatere Plains) and coastal south Marlborough will fall under Priority 1. A number of specific areas will fall into Priorities 2 and 3, for example wetlands, the stony beach ridges at Rarangi and the coastal limestone cliffs. In terms of Priority 4 habitats, in Marlborough bird species such as the New Zealand falcon, weka and rifleman and plant species such as pīngao, *Muehlenbeckia astonii* and native broom species are either acutely or chronically threatened.

Policy 8.2.4 – Priority will be given to the re-establishment of indigenous biodiversity in Marlborough's lowland environments.

In Marlborough's lowland environments (the Wairau and Awatere Plains) some ecosystem types are extremely depleted and have been fragmented over time. In these areas fully functioning ecosystems are not common as many native bush birds and insects are present in low numbers (for instance, very few tui can be found in south Marlborough). Lack of habitat caused by lack of fauna prevents natural functions such as seed dispersal and pollination, meaning that without active intervention by humans, some sites are, or will become unviable in the long term. Although there are challenges in natural regeneration and assisted revegetation, it is important that efforts are made to re-establish indigenous biodiversity in these areas, particularly as there is little public conservation land in south Marlborough. This policy will also help to address central government's national priorities for protecting indigenous vegetation on private land.

Policy 8.2.5 – Encourage the legal protection of sites with significant indigenous biodiversity value through covenanting.

An important aspect of covenanting is that it is voluntary. To assist with the implementation of Policy 8.2.2, the Council will actively work with landowners to register covenants over sites with significant indigenous biodiversity value, resulting in important sites being protected in perpetuity. Covenants, such as those available under the Queen Elizabeth II National Trust, mean that land ownership and management of land remains with the landowner, but ongoing advice and support can be received for the site covenanted.

Policy 8.2.6 – Where areas of significant indigenous biodiversity value are known to exist in riparian margins of rivers, lakes or in the margins of a significant wetland, consideration will be given to acquiring or setting aside these areas to help protect their values.

Land along the margins of rivers, lakes and significant wetlands may have significant natural value and serve as important habitats. There is strong emphasis given to the enhancement of these areas under Section 6 of the RMA. Esplanade reserves or esplanade strips can be taken for the purposes set out in Section 229 of the RMA, including where this will contribute to the protection of conservation values. The reason for this policy therefore is to signal that where areas of significant indigenous biodiversity value occur in riparian margins, then land may be

taken or set aside upon subdivision, or as a financial contribution on activities not requiring subdivision consent. The Council may also negotiate with landowners outside of these more formal processes if the values are significant enough to warrant protection.

Policy 8.2.7 – A strategic approach to the containment/eradication of undesirable animals and plants that impact on indigenous biodiversity values will be developed and ~~and maintained~~ implemented, .and subject to review and update.

Comment [N10]: The word maintain in this context is unclear. The policy should specify that the 'strategic approach' that is developed must actually be implemented and that it will be subject to periodic review to ensure it is up to date and fit for purpose.

The wide range of pest species present in Marlborough, their location, characteristics and spread, means that a range of responses is necessary to deal with them and protect indigenous biodiversity. This can occur through rules in the Council's regional pest management plan, national pest management strategies, provision of information and advice to landowners, consent holders and the public, biological and physical control, monitoring and surveillance and at times, direct funding to landowners to help protect significant sites from pests. It is important to acknowledge that landowners (including statutory organisations) have a significant responsibility for controlling and managing pest animals and plants.

Often the resources required (technologically or financially) to effectively manage pests with physical control methods across the entire District are not available. The most effective and efficient approach will be to target pests at sites of high ecological value where they can be realistically managed to protect particular values or areas. This approach will rely on strong partnerships with landowners.

To date the Council has had limited involvement or experience in dealing with pests in the coastal marine area, but what work has been done has focussed on managing pests for economic reasons, especially for the marine farming industry in the Marlborough Sounds. Part of the Council's strategic approach for the coastal marine area has seen the establishment of a collaborative partnership to help build capability and put in place a framework to manage future biosecurity threats.

Policy 8.2.8 – Where monitoring of ecosystems, habitats and areas with significant indigenous biodiversity value shows that there is a loss of or deterioration in condition of these sites, then the Marlborough District Council will review the approach to protection.

Ongoing monitoring of the condition of sites with significant indigenous biodiversity value will be necessary to determine if the methods in the MEP are helping to improve the overall condition of significant indigenous biodiversity in Marlborough. Where state of the environment monitoring shows a loss of or deterioration in the condition of significant sites as a result of the voluntary approach to protection, then the Council will review the voluntary approach to determine whether increased use of regulation should be pursued. Any changes to the MEP as a result of this review would only occur through the First Schedule process of the RMA.

Policy 8.2.9 – Maintain, enhance or restore ecosystems, habitats and areas of indigenous biodiversity even where these are not identified as significant in terms of the criteria in Policy 8.1.1, but are important for:

- **(a) the continued functioning of ecological processes;**
- **(b) providing connections within or corridors between habitats of indigenous flora and fauna;**
- **(c) cultural purposes;**
- **(d) providing buffers or filters between land uses and wetlands, lakes or rivers and the coastal marine area;**
- **(e) botanical, wildlife, fishery and amenity values;**
- **(f) biological and genetic diversity; and**
- **(g) water quality, levels and flows.**

This policy identifies a range of factors that are important for the overall functioning of ecological processes. However, it is important to recognise that not all areas with indigenous biodiversity value will be considered significant. Nonetheless, these areas still add to the overall sustainable

management purpose of the RMA, particularly when having regard to the following Section 7 matters of the RMA:

(c) The maintenance and enhancement of amenity values.

(d) Intrinsic values of ecosystems.

(f) Maintenance and enhancement of the quality of the environment.

(g) Any finite characteristics of natural and physical resources.

Policy 8.2.10 – Promote to the general public and landowners the importance of protecting and maintaining indigenous biodiversity because of its intrinsic, conservation, social, economic, scientific, cultural, heritage and educational worth and for its contribution to natural character.

Increasing awareness about the unique and diverse biodiversity of Marlborough is important. The policy recognises contributions towards protecting and maintaining biodiversity will see the Council continuing to work closely with the community. This approach has been fundamental to improving biodiversity to date, because to protect biodiversity on private land, the Council relies heavily on voluntary participation and proactive protection activity from landowners. Within the coastal environment this role is particularly important as the resources comprised in the coastal marine area are in public ownership. Coupled with imperatives in the RMA requiring the preservation of the natural character of the coastal environment, wetlands, lakes and rivers, the Council recognises that informing the public about Marlborough's biodiversity is essential in helping to protect the values identified in the policy.

Policy 8.2.11 – Promote corridors of indigenous vegetation along waterbodies to allow the establishment of native ecosystems and to provide wildlife habitat and linkages to other fragmented bush or wetland remnants.

Riparian areas are the interface between land and water resources and provide important habitat for unique flora and fauna, including swamp nettle and whitebait spawning sites. Vegetation within the riparian area also contributes to freshwater habitat through the provision of refuge and the input of food and shade. For example, many native fish species are dependent on native terrestrial insects as a food source and these insects are often only found in indigenous riparian vegetation. Promoting ecological corridors on both public and private land therefore plays an important part in protecting ecosystems and maintaining and enhancing the quality and diversity of remaining natural areas.

The opportunity already exists to improve biodiversity on Council-owned land along a number of waterways on the Wairau Plain, as well as alongside rivers in other catchments (e.g. Wakamarina, Rai, Onamalutu and Pelorus), despite these riparian areas being maintained for flood hazard mitigation. These river margins may not presently have particular value for biodiversity, but they could have in future with enhancement work such as the removal of plant pests and planting with native species.

Policy 8.2.12 – Encourage and support private landowners, community groups and others in their efforts to protect, restore or re-establish areas of indigenous biodiversity.

Not all of the responses to protecting, restoring or re-establishing indigenous biodiversity need to be achieved through the RMA or by regulation. For example, voluntary agreements can be put in place by various groups to protect species or habitats. There are also provisions in other statutes that can be used by various agencies to protect particular values and these may extend to also protecting important biodiversity values, e.g. the Marine Reserves Act 1971. The Council has also established programmes to assist landowners and community groups to protect and restore natural areas and ecosystems. This includes financial assistance to landowners willing to protect ecologically important areas on their properties.

Policy 8.2.13 – When re-establishment or restoration of indigenous vegetation and habitat is undertaken, preference should be given to the use of native species of local genetic stock.

Plants within the same species can adapt to local conditions to become genetically separate (and sometimes physically distinctive). Local plants are therefore well adapted and are best used for propagation, as they provide the best chance of survival and good growth within the District. These plants also protect genetic diversity within local populations and prevent the character of local ecosystems from being swamped by imported varieties from other areas. Therefore, where feasible, seed should be collected from within a catchment or ecological district as close as possible to the specific site of a planting project.

Managing effects of subdivision, use and development on indigenous biodiversity

Policy 8.3.1 – Manage the effects of subdivision, use or development in the coastal environment by:

(a) avoiding adverse effects where the areas, habitats or ecosystems are those set out in Policy 11(a) of the New Zealand Coastal Policy Statement 2010;

(b) avoiding adverse effects where the areas, habitats or ecosystems are mapped as significant wetlands or ecologically significant marine sites in the Marlborough Environment Plan; or

(c) avoiding significant adverse effects and avoiding, remedying or mitigating other adverse effects where the areas, habitats or ecosystems are those set out in Policy 11(b) of the New Zealand Coastal Policy Statement 2010 or are not identified as significant in terms of Policy 8.1.1 of the Marlborough Environment Plan.

Policy 11 of the New Zealand Coastal Policy Statement 2010 (NZCPS) defines a range of priorities so that indigenous biodiversity in the coastal environment is protected. Policy 8.3.1 of the MEP reflects the priority approach of the NZCPS to subdivision, use and development activities within the coastal environment.

Policy 8.3.2 – Where subdivision, use or development requires resource consent, the adverse effects on areas, habitats or ecosystems with indigenous biodiversity value shall be:

(a) avoided where it is a significant site in the context of Policy 8.1.1; and

(b) avoided, remedied or mitigated where indigenous biodiversity values have not been assessed as being significant in terms of Policy 8.1.1.

This policy sets up a hierarchy for decision makers to use when assessing the effects of subdivision, use or development activities on areas, habitats or ecosystems with indigenous biodiversity value. For those sites identified as being significant in terms of Policy 8.1.1, it is important that adverse effects are avoided. This recognises that there are few significant sites remaining on private land, especially in southern Marlborough. Where sites have not been identified as significant through Policy 8.1.1, decision makers can also consider remediation or mitigation options to address adverse effects.

Policy 8.3.3 – Control vegetation clearance, land disturbance, drainage and subdivision activities to retain ecosystems, habitats and areas with indigenous biodiversity value.

Although the Council has adopted an approach of voluntary partnerships with private landowners to identify and protect areas of significant indigenous biodiversity, it is important there is a "backstop" measure in place to control activities that involve the removal of indigenous vegetation. The difference in approach recognises that rules in themselves will not improve the overall condition of significant natural areas; only by working with landowners can that occur. However, control through both permitted activity rules (with conditions) and discretionary activity rules for

Comment [N11]:
Uncontrolled land disturbance and subdivision can also have significant adverse effects on biodiversity. For example earthworks if not properly controlled can result in sediment runoff which smothers freshwater or marine habitat. It can also result in the destruction and removal of habitat in the terrestrial environment. The flow on effects of subdivision are more extensive and higher intensity development which results in fragmentation of the landscape. Fragmentation compromises ecological corridors, linkages and stepping stones. It is appropriate that these land based activities are controlled to protect biodiversity. Control of these activities is also identified in the methods.

vegetation clearance is also necessary to assist in minimising the loss of ecosystems, habitats and areas with indigenous biodiversity value. It is important to note that there may be some circumstances where the clearance of indigenous vegetation will be excluded from rules, such as that which occurs under plantation forestry or on existing roads. The policy will also contribute to achieving outcomes for the protection of outstanding natural features and landscapes and the maintenance of high amenity areas (see Chapter 7 - Landscape, Volume 1 of the MEP).

Policy 8.3.4 – Improve the management of drainage channel maintenance activities to mitigate the adverse effects from these activities on the habitats of indigenous freshwater species.

The Council operates and maintains a historic network of drainage channels on the Wairau Plain. This network reduces groundwater levels and improves the productive potential of the rural land resource. Some of the drainage channels are modified rivers, while others are artificial watercourses. The drainage channels often provide habitat to indigenous freshwater fauna, including eel (tuna) and other freshwater fish and kōura. These species are a source of mahinga kai to Marlborough's tangata whenua iwi and contribute to Marlborough's overall biodiversity.

The maintenance of the drainage network involves the control and/or removal of aquatic plants, wetland plants and accumulated sediment from the bed of the channels that would otherwise reduce the efficiency of water flow and increase water levels. Such maintenance can adversely affect aquatic animals within the channel, either through direct removal or a reduction of habitat. While it is difficult to completely avoid the adverse effects of drainage channel maintenance on aquatic biodiversity, it is possible, using good environmental practice guidelines, to mitigate the nature and degree of effect from maintenance activities.

Policy 8.3.5 – In the context of Policy 8.3.1 and Policy 8.3.2, adverse effects to be avoided or otherwise remedied or mitigated may include:

(a) fragmentation of or a reduction in the size and extent of indigenous ecosystems and habitats;

(b) fragmentation or disruption of connections or buffer zones between and around ecosystems or habitats;

(c) changes that result in increased threats from pests (both plant and animal) on indigenous biodiversity and ecosystems;

(d) the loss of a rare or threatened species or its habitat;

(e) loss or degradation of wetlands, dune systems or coastal forests;

(f) loss of mauri or taonga species;

(g) impacts on habitats important as breeding, nursery or feeding areas, including for birds;

(h) impacts on habitats for fish spawning or the obstruction of the migration of fish species;

(i) impacts on any marine mammal sanctuary, marine mammal migration route or breeding, feeding or haul out area;

(j) a reduction in the abundance or natural diversity of indigenous vegetation and habitats of indigenous fauna;

(k) loss of ecosystem services;

(l) effects that contribute to a cumulative loss or degradation of habitats and ecosystems;

(m) loss of or damage to ecological mosaics, sequences, processes or integrity;

(n) effects on the functioning of estuaries, coastal wetlands and their margins;

(o) downstream effects on significant wetlands, rivers, streams and lakes from hydrological changes higher up the catchment;

(p) natural flows altered to such an extent that it affects the life supporting capacity of waterbodies;

(q) a modification of the viability or value of indigenous vegetation and habitats of indigenous fauna as a result of the use or development of other land, freshwater or coastal resources;

(r) a reduction in the value of the historical, cultural and spiritual association with significant indigenous biodiversity held by Marlborough's tangata whenua iwi;

(s) a reduction in the value of the historical, cultural and spiritual association with significant indigenous biodiversity held by the wider community; and

(t) the destruction of or significant reduction in educational, scientific, amenity, historical, cultural, landscape or natural character values.

The policy identifies a range of adverse effects that may result from subdivision, use and development, and which may need to be avoided to protect indigenous biodiversity values. The effects can occur in terrestrial, freshwater or coastal environments or be specific to one environment. Therefore in determining whether these adverse effects may occur and potentially affect indigenous biodiversity values, a case-by-case assessment will be necessary. Depending on the environment within which the subdivision, use or development is to take place and the particular values associated with the site and degree of effect likely to result from the proposed activity, a determination can be made as to whether the effects should be avoided in terms of Policies 8.3.1 and 8.3.2 or can otherwise be remedied or mitigated.

Policy 8.3.6 – Where taking or diversion of water from waterbodies is proposed, water levels and flows shall remain at levels that protect the natural functioning of those waterbodies.

This policy sets an environmental bottom line to protect biodiversity values in waterbodies (including in streams that are spring fed) where the taking of water is proposed. Regard will be had to the policy in establishing environmental flow and level limits and when considering resource consent applications where no such regime has been established. This policy recognises that all waterbodies are important and that protecting the natural functioning of these environments will at least maintain biodiversity values. In some cases, prohibited activity rules have been applied to protect the values of waterbodies.

Policy 8.3.7 – Within an identified ecologically significant marine site fishing activities using techniques that disturb the seabed must be avoided.

Some fishing activities use techniques that result in disturbance of the seabed. Depending where this occurs, there is the potential for adverse effects on marine biodiversity. The policy seeks to specifically avoid the use of these techniques to ensure areas identified as having significant biodiversity value in the coastal marine area are protected. This will help to give effect to Policy 11 of the NZCPS.

Policy 8.3.8 – With the exception of areas with significant indigenous biodiversity value, where indigenous biodiversity values will be adversely affected through land use or other activities, a biodiversity offset can be considered to mitigate residual adverse effects. Where a biodiversity offset is proposed, the following criteria will apply:

(a) Residual adverse effects: the offset will only compensate for residual adverse effects that cannot otherwise be avoided, remedied or mitigated;

(b) Limits to offsetting: offsetting should not be applied to justify impacts on vulnerable or irreplaceable biodiversity

~~(b)~~(c) No net loss: the residual adverse effects on biodiversity are capable of being offset and will be fully compensated by the offset to ensure no net loss of biodiversity;

~~(c)~~(d) Net gain: where the area to be offset is identified as a national priority for protection under Objective 8.1, the offset must deliver a net gain for biodiversity;

~~(d)~~(e) Long term outcomes: there is a strong likelihood that the offsets will be achieved

Comment [N12]: This provision is strongly supported. The adverse effects of fishing activities which disturb the sea bed are extensive and well known. It destroys both habitat and species themselves. The Marlborough Sounds is home to some of New Zealand's most unique marine species and a robust and directive approach to protecting those species is appropriate. Prohibited status for all relevant activities should be applied.

Comment [N13]: Providing for biodiversity offsets is supported in principle. However the policy does not identify a number of the criteria that a proposal must achieve to qualify as an offset (see BBOP Principles. An example of this in a 2nd generation plan is in the Northland RPS). It also incorrectly identifies offsetting as a mitigation. Mitigation addresses effects on site whereas an offset seeks to address effects in one location through a gain at a different location (***Forest & Bird v Buller District Council***). Because of this, offsetting is a risky business and it must be applied correctly.

Generally if a proposal does not meet all of the offsetting criteria it is call 'biodiversity environmental compensation'. In some instances the decision will be made at plan level that compensation proposals are not available and only offsetting will be provided for. In others it is provided for but the failure to meet one or a number of the offsetting criteria will go to the merits of the proposal and so ultimately the application as a whole.

In both instances it is critical that clear definitions are criteria are included to prevent perverse outcomes and biodiversity loss.

in perpetuity;

~~(e) where the offset involves the ongoing protection of a separate site, it will deliver no net loss and preferably a net gain for indigenous biodiversity protection; and~~

(f) Like for like: **offsets should re-establish or protect the same type of ecosystem or habitat that is adversely affected, unless an alternative ecosystem or habitat will provide a net gain for indigenous biodiversity.**

(g) Additional conservation outcomes: biodiversity outcomes are above and beyond results that would have occurred if the offset was not proposed.

(h) Proximity: the proposal should be located close to the application site, where this will achieve the best ecological outcomes.

(i) Timing: the delay between the loss of biodiversity through development and the gain or maturation of ecological outcomes is minimized.

~~(f)~~ Any offsetting proposal will include biodiversity management plans prepared in accordance with good practice.

Biodiversity offsets are the final step in a hierarchical process in which adverse effects on indigenous biodiversity are first avoided, then remedied, and finally mitigated. Only after these approaches have been exhausted is it appropriate to consider biodiversity offsets to deal with unavoidable residual adverse effects. Policy 8.3.8 makes clear that biodiversity offsets should not be considered in areas that have been assessed as having significant biodiversity value and where adverse effects on these values are to be avoided.

The goal of a biodiversity offset is to achieve no net loss and preferably a net gain of biodiversity with respect to species composition, habitat structure and ecosystem functions. It is therefore important that offsets are appropriate compensation. There is a preference for the re-establishment or protection of the same type of ecosystem or habitat to avoid the difficulty of assessing relative values of different ecosystems or habitats of different species. Trade-offs involving different species will not always adequately compensate for the loss of the originally threatened species. However, the policy does recognise that where significant indigenous biodiversity benefits can be achieved, the protection of other habitats may be appropriate.

There will be cases where the indigenous biodiversity at risk is so significant that it should not be significantly modified or destroyed under any circumstances (other than when necessary for avoiding risks to human condition and safety). There are also situations where residual effects cannot be fully compensated because the biodiversity is highly vulnerable or irreplaceable; for example, where the vegetation or habitat is so rare or reduced that there are few or no opportunities to deliver an offset. In such cases, offsetting cannot be considered as a means of environmental compensation for adverse effects.

There also needs to be certainty that the proposed offsets will occur. Offset measures such as indigenous planting will take a long time to establish and become useful in a biodiversity role. There should be an overall improvement in indigenous biodiversity as a result of the project and its biodiversity offsets.

~~(g)~~(j)

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

8.M.1 Regional rules

Resource consent will be required to modify waterbodies and for any activity that would result in the draining or modification of a wetland (excluding artificially created ponds). The term 'modification' applies in the context of a physical change to the waterbody or in terms of alteration to flow (including the taking of water). Regard must be had to the values of waterbodies identified in Appendix 5.

Permitted activity rules will enable some activities to be carried out in wetlands and rivers where there is no more than minor adverse effect. These rules will specify certain standards that have to be met for the activity to remain as permitted. In some cases where significant wetlands have been least modified by humans, prohibited activity rules have been applied to ensure the values of the significant wetlands are maintained.

Where appropriate, regional rules will enable pest management activity for biodiversity outcomes.

Fishing activities using techniques or methods that disturb the seabed in the areas identified as an ecologically significant marine site will be prohibited. Resource consent is required for most uses

or activities within the coastal marine area and an assessment of the effects of the activity on indigenous biodiversity will be undertaken, including whether there are any significant biodiversity values.

8.M.2 District rules

Resource consent will be required for subdivision land disturbance or vegetation clearance activities where certain species or habitats with indigenous biodiversity value are to be modified.

Comment [N14]:
Change consistent with the amendments sought above.

8.M.3 Marlborough's Significant Natural Areas Programme

The Council's Marlborough Significant Natural Areas programme involves the collection of information about natural ecosystems on private land, with the aim of working with landowners to help protect significant sites. An ecological survey is undertaken with property reports prepared that summarise the ecological values found and suggest management options to ensure their long term survival.

The Department of Conservation has also identified significant sites on private land through its Protected Natural Areas survey programme. There is no duplication in effort as the Council and Department programmes have surveyed different areas of Marlborough.

Although a good proportion of private land in Marlborough has been surveyed, some landowners have not allowed the Council onto their property, therefore the programme of identifying sites is incomplete and ongoing. If a landowner changes their mind or a property changes ownership and a new landowner wishes to have their property surveyed, then the Council will undertake the survey work.

8.M.4 Identification of areas with significant biodiversity value

Identification of the values of various waterbodies within Marlborough is included in Appendix 5. The natural and human use values include ecological, habitat, recreational and natural character values.

The Council has also identified in the resource management plan significant wetlands and ecologically significant marine sites.

8.M.5 Monitoring

The Council has gathered a significant amount of information about indigenous biodiversity in Marlborough through the Significant Natural Areas programme. The Council has established a monitoring programme that will be ongoing to determine if support programmes are helping to improve the overall condition of indigenous biodiversity in Marlborough.

The Council will establish baseline monitoring programmes that provide a benchmark for determining the ongoing condition of habitats, ecosystems and areas that have significant indigenous biodiversity values. Where appropriate, the Council will also require resource consent holders to monitor the effects of their activity on marine biodiversity.

The Council is aware that its knowledge on areas with biodiversity value is incomplete and is therefore committed to carrying out and supporting research, and undertaking state of the environment monitoring to gain a better understanding of Marlborough's biodiversity.

8.M.6 Support

The Council will support, including financially, the protection and/or restoration of areas with biodiversity value in the following ways:

- *through the established landowner assistance programme, which provides both practical and financial help with work such as pest and weed control and fencing;*
- *by the waiving of resource consent application fees for activities that would assist in the protection of significant areas;*

- *through the annual planning process, consider granting reductions in rating for properties where sites are protected through conservation covenants;*
- *from funding made available by central government for the protection of areas of significant indigenous vegetation and habitats of indigenous fauna;*
- *by prioritising available funds for significant sites where sites are subject to protective covenants;*
- *through appropriate investigations to improve our understanding of the nature and state of indigenous biodiversity in Marlborough; and*
- *through supporting initiatives developed by community and industry groups to promote protection and restoration of indigenous biodiversity.*

8.M.7 Information

Increasing the knowledge and understanding of landowners and the public of the occurrence of significant areas of ecological value not only leads to greater appreciation of those values, but can motivate voluntary action to maintain and enhance indigenous biodiversity. The type of information already available or to be provided includes:

- *information to individual landowners through the 'Marlborough Significant Natural Areas' programme and the Department of Conservation 'Protected Natural Areas' survey programme on sites of significant indigenous biodiversity on private land, on the issues affecting the sites and suggestions for future management of the sites;*
- *based on knowledge through the survey programmes, a summary overview of significant natural areas in south and north Marlborough;*
- *newsletters for the public about the achievements being made on private land to protect and/or enhance biodiversity in Marlborough;*
- *web-based information on Marlborough's indigenous biodiversity, the various programmes of support available and guidelines on various issues;*
- *on specific issues affecting indigenous biodiversity through groups such as the Sounds Advisory Group;*
- *through maintenance of a database that records studies of marine areas undertaken by a variety of science providers. (This database is available on the Council's website.) The studies undertaken include those for resource consent applications or other scientific investigation, e.g. those undertaken on dusky dolphins in Admiralty Bay;*
- *encouraging the implementation of regimes such as voluntary retirement of land from farming, Queen Elizabeth II National Trust and other covenants, the establishment of reserves and voluntary restoration to achieve the protection of areas of significance;*
- *state of the environment reporting on the extent and condition of Marlborough's biodiversity; and.*
- *fact sheets on effective methods to control undesirable plants and animals and opportunities for private land to be covenanted.*

8.M.8 Guidelines

Guidelines have already been developed by the Council and other agencies for a range of aspects concerning biodiversity, including:

- *to help interested landowners identify and clarify both production and ecological values on private property and develop practical and specific management strategies to balance these;*
- *which species are suitable for planting in south Marlborough, including for different areas and ecosystems. The guide (produced in conjunction with the Department of*

Conservation) provides advice and information for small and larger scale plantings and restoration projects;

- *approaching marine mammals from land, sea and air and on minimising acoustic disturbance to mammals from seismic survey operations (both produced by the Department of Conservation);*
- *the benefits of and how to eco-source plants for restoration projects; and*
- *for the restoration/creation of wetlands.*

The Council will prepare guidelines to assist developers on options available for enhancing indigenous biodiversity.

The Council will investigate and document best practice guidelines to assist when planning for and undertaking drainage channel maintenance activities. The practices will vary between drainage channels, depending on the circumstances. Marlborough's tangata whenua iwi and others with an interest in aquatic biodiversity will be provided the opportunity to assist in the development of the guidelines.

As the need arises, the Council will develop further guidelines in an endeavour to enhance overall biodiversity in Marlborough.

8.M.9 Regional Pest Management Plan for Marlborough

The Regional Pest Management Plan for Marlborough (prepared under the Biosecurity Act 1993) classifies a range of plant and animal species as pests because they cause or have the potential to cause significant adverse effects on Marlborough's economy and/or environment. Individual pests are placed in one of three categories. The management regime, which includes rules for each pest, applies mostly to terrestrial environments but does include aquatic plant and animal pests. The plan also lists plant and animal species that pose potential threats to ecological values in Marlborough. These species do not have a specific regime for control because they do not pass the required cost benefit tests set out in the Biosecurity Act. However, control of these pests will likely be based on a 'site led' approach, targeted to sites with significant ecological value where the reduction of a range of pests would be effective in protecting those values.

8.M.10 Works

The Council will undertake planting of riparian margins with indigenous species on land owned or administered by the Council where appropriate.

8.M.11 Partnership/Liaison

The Council works closely with the Queen Elizabeth II National Trust, an independent organisation that assists landowners to formally protect their land through a covenant on the property title. The Council also works closely with the Department of Conservation in providing information for landowners and the public in general and in on-the-ground work to assist in enhancing biodiversity in Marlborough.

Focussed projects to enhance indigenous biodiversity are supported and promoted by the Council. This can include projects such as landcare groups set up to restore areas such as the Grovetown Lagoon and Rarangi foreshore, working with nurseries to ensure locally-sourced native plants are available for restoration projects, establishing the Tui to Town project to entice native birds across the Wairau Plain from the Northbank forests and working with resident groups on local projects.

Through its role in biosecurity the Council also acts in a liaison capacity with the Ministry for Primary Industries (MPI) Biosecurity New Zealand in the management of a range of undesirable animals and plants. Equally important in the control and management of pest animals and plants is the partnership role between the Council and private landowners and between the Council and Department of Conservation/Land Information New Zealand with respect to Crown land.

The Council has a partnership role with the Minister of Conservation in managing Marlborough's coastal marine area. The Minister is responsible for approving regional coastal plans and also administers the NZCPS. For this reason, maintaining a strong partnership with the Department of Conservation through its area and local offices will be very important in looking after Marlborough's marine biodiversity.

The Council has entered a collaborative partnership with Top of the South councils (Tasman, Marlborough and Nelson), MPI Biosecurity New Zealand, marine farming industries and iwi to help build capability and put in place a framework to manage future marine biosecurity threats. The Department of Conservation will also be involved in the consideration of biosecurity threats where these may affect marine biodiversity.

Many residents, resident groups and other community based groups have an interest in how Marlborough's coastal marine areas are to be managed into the future. Maintaining a strong relationship with these individuals and groups will help to achieve the outcomes sought for maintaining marine biodiversity. This will extend to supporting community initiatives and advocating to government departments to set up protected marine areas and working with industry groups to promote sustainable use of marine resources.

8.M.12 Acquisition of land

The Council may consider acquiring sites with outstanding ecological values where land purchase is the only means available for protection of the values and that land is available for purchase. The Council will also encourage other agencies to do this.

Anticipated environmental results and monitoring effectiveness

The following table identifies the anticipated environmental results of the indigenous biodiversity provisions of the MEP. The anticipated environmental results are ten year targets, unless otherwise specified. For each anticipated environmental result, a series of indicators will be used to monitor the effectiveness of the indigenous biodiversity provisions.

Anticipated environmental result	Monitoring effectiveness
8.AER.1 An increase in the number and extent of ecosystems, habitats and areas with indigenous biodiversity value that are formally protected or covenanted (where practicable).	There is an increase in the area of land covered in indigenous vegetation (including in riparian margins) in those parts of Marlborough defined as acutely or chronically threatened in the Threatened Environment Classification (National Priority One in "Statement of National Priorities for Protecting Rare and Threatened Biodiversity on Private Land). The number of sites with significant indigenous biodiversity value under formal protection by either a landowner agreement with the Council or a Queen Elizabeth II National Trust covenant or similar has increased. There is an increase in the number of marine protected areas.

Anticipated environmental result	Monitoring effectiveness
8.AER.2 Maintenance and enhancement of the condition of ecosystems, habitats and areas with indigenous biodiversity value.	Monitoring of sites identified through the Significant Natural Areas programme shows an improvement in the values of those sites. Baseline monitoring programmes established in 2010 for a representative sample of terrestrial, river and wetland and in 2014/15 for ecologically significant marine site shows no loss of those values over the life of the MEP. There is no increase in the extent or distribution of known aquatic pest species identified as declared pests in the Regional Pest Management Plan for Marlborough.
8.AER.3 There is no loss in wetland area.	Measured against a baseline monitoring programme established for wetlands in 2010, there is no loss in the overall area of wetlands in Marlborough.
8.AER.4 Widespread community involvement in looking after Marlborough's indigenous biodiversity.	Continuation of community involvement in projects and initiatives such as 'Tui to Town,' Grovetown Lagoon restoration, landcare groups, planting of riparian areas, etc. The number of landowners protecting private land with indigenous biodiversity values (through formal protection or active management) increases. A voluntary partnership approach with landowners continues to be the primary means of protecting terrestrial areas of significant indigenous biodiversity.
8.AER.5 An increase in knowledge of Marlborough's indigenous biodiversity.	Use of scheduled criteria to identify ecosystems, habitats or areas present with significant indigenous biodiversity value through resource consent applications or where future survey work may be undertaken. The number of private properties over which ecological assessments to determine if there are ecosystems, habitats or areas present with significant indigenous biodiversity value, increases (albeit at a low level) as the active SNA survey has been completed. Any increase in properties surveyed is most likely to arise through resource consent processes. Knowledge and understanding of indigenous biodiversity in Marlborough's coastal marine area is enhanced through maintenance of the marine database of information and from supporting research in areas where little is known about marine biodiversity.

ANNEXURE 2.H

EDS reasons and relief in comment boxes and/or track-changes.
EDS also seeks any consequential relief, including to the PMEP rules, necessary to respond to the issues raised and give effect to the changes sought.
Provisions not specifically commented on are supported (subject to the changes sought).

13. Use of the Coastal Environment

This chapter does not contain provisions managing marine farming.

Introduction

Marlborough's coastal environment consists of two quite distinct geographic areas: the Marlborough Sounds and the south Marlborough coast. The Sounds are essentially large drowned river valleys lying between mountain ranges, extending from Cape Soucis in the west to Port Underwood in the east. In complete contrast, the south Marlborough coast is an open sea coast, extending from Robin Hood Bay (Port Underwood) in the north to Willawa Point in the south. Together these areas contain approximately 1,800 kilometres of coastline, around 11 percent of New Zealand's total coastline.

The New Zealand Coastal Policy Statement 2010 (NZCPS) recognises that the extent and characteristics of the coastal environment varies from region to region and locality to locality. The NZCPS also lists a range of factors that help inform what the coastal environment includes. In a Marlborough context, the extent of the coastal environment has been identified in Chapter 6 - Natural Character of the Marlborough Environment Plan (MEP) and includes the coastal marine area (an active coastal interface area where the sea is the dominant element and influence on landform, vegetation and perception) and a coastal significance area, which generally includes land up to the first coastal ridge. Given that a coastal influence is evident throughout the Marlborough Sounds, all of this area is considered to be coastal environment. The southern coast of Marlborough is more complex due to variation in landform; therefore the extent of coastal environment differs from location to location. The landward extent of the coastal environment is mapped in the MEP and the provisions of this chapter apply seaward of the mapped line.

In addition to the distinct geographical differences in Marlborough's coastal environment, there is also diversity in land use, from the highly modified areas of Picton and Havelock, the less modified pockets of holiday home development throughout the Marlborough Sounds, areas of productive rural land bordering the coast, the salt works at Lake Grassmere in south Marlborough and the almost pristine or unmodified tracts of indigenous vegetation in Tennyson Inlet in the Marlborough Sounds. The waters of Marlborough's coastal environment also reflect diversity in use and values, including recreation, as a means of transport and travel, commercial and recreational fishing, as a source of kaimoana and cultural significance for all (particularly Marlborough's tangata whenua iwi), tourism, marine farming, boating, swimming, diving, jetties, moorings, boatsheds and appreciation of landscape and wilderness values.

The structure for this chapter differs somewhat from other chapters as it includes management frameworks for specific activities. However, all subdivision, use and development activities within the coastal environment are firstly subject to the objectives and policies under Issue 13A. Subsequent to consideration of these objectives and policies in any resource consent application are the specific management frameworks applying to a range of activities.

Subdivision, use and development activities in the coastal environment

There is an expectation held by many that the natural and physical resources of Marlborough's coastal environment are available for use and/or development to provide for the social, economic and cultural wellbeing of the community. (This issue has been addressed in Chapter 4 - Use of Natural and Physical Resources.) However, it is important that subdivision, use and development

activities are appropriately located and carried out within prescribed limits to protect the values of Marlborough's coastal environment, as directed by the Resource Management Act 1991 (RMA) and the NZCPS. The role of this chapter is to establish a management framework for all activities

in the coastal environment, having regard to the purpose and principles of the RMA and to the provisions of the NZCPS. The NZCPS has been important in forming the basis for the management framework as the Council must give effect to the provisions of the NZCPS in the MEP.

The issues in this chapter include use of both land and the coastal marine area. Interconnections between the two reflect the need for integrated management, which is effectively the role of a regional policy statement. In many cases, use or development extends across the high tide mark; for example in the operation of ports and marinas. In other situations, a use may be solely within the coastal marine area but will still have a connection with land; for example, via a mooring or jetty to allow access to an adjacent dwelling. Conversely, in addition to requiring a jetty or mooring for access, a dwelling on land may also have implications for water quality in terms of the discharge of domestic wastewater to land. Therefore, the importance of recognising and providing for the interconnections between activities on land and water cannot be understated.

Due to the interconnections described above, the management framework in this chapter is also supported by policy in other chapters, including landscape, biodiversity, natural character, public access and resource quality. Collectively, these policies help to define:

- where subdivision, use or development may be appropriate;
- the form that any subdivision, use or development should take;
- whether limits should be applied; and
- where activities should be avoided.

Issue 13A – Trying to identify appropriate subdivision, use and development activities in Marlborough's coastal environment ~~while~~ that will also protect~~ing~~ the values of the environment.

The preamble to the NZCPS recognises a range of challenges in promoting the sustainable management of the coastal environment, including:

- *"the natural and recreational attributes of the coast and its attraction as a place to live and visit combine with an increasingly affluent and mobile society to place growing pressure on coastal space and other resources;*

  and

- *there is continuing and growing demand for coastal space and resources for commercial activities…"*

At times it can be difficult to determine 'appropriate activities' in the face of these challenges (and others identified in the NZCPS) as users have competing demands and place different values on the resources of the coastal environment. This can also be compounded by the dynamic (or changing) nature of that environment.

While the NZCPS gives clear direction through its policies about the adverse effects that are to be avoided, this must be determined in the context of the particular qualities and characteristics of Marlborough's coastal environment and the uses and activities that already occur there. Therefore, the management framework established through Objectives 13.1 and 13.2 (and their subsequent policies and methods) describes the qualities and characteristics that are important in determining whether a particular subdivision, use or development activity is appropriate. These matters must be considered in all applications for resource consent and are important in terms of giving effect to the NZCPS and to the principles of the RMA.

Comment [N1]:
The problem Issue 13A intends to capture is not clear. The process of identifying appropriate activities does not itself take place while, or at the same time as, protecting environmental values which is how the statement is framed. Rather the issue is identifying appropriate activities that will protect those values. It is finding the balance of providing for the activity while protecting the environment that is the challenge.

[RPS]

Objective 13.1 – Areas of the coastal environment where the adverse effects from particular activities and/or forms of subdivision, use or development are to be avoided are clearly identified.

The Council is directly responsible in determining what is inappropriate subdivision, use and development in the coastal environment in terms of the preservation of natural character (Section 6(a)), as well as in the protection of outstanding natural features and landscapes (Section 6(b)) and historic heritage (Section 6(f)). This is further reinforced through the provisions of the NZCPS, particularly Policy 7: Strategic Planning. If clear direction is provided through the MEP of the significant values and locations in Marlborough's coastal environment, resource users will have a better appreciation of what may be appropriate subdivision, use or development in particular locations.

[RPS]

Policy 13.1.1 – Avoid adverse effects from subdivision, use and development activities on areas identified as having:

(a) outstanding natural character;

(b) outstanding natural features and/or outstanding natural landscapes;

(c) significant marine biodiversity value and/or are a significant wetland;

(d) identified as significant coastal biodiversity value sites under Policy 8.1.1

~~(c)~~(e) the values, habitats or ecosystems in Policy 11(a) NZCPS or

~~(d)~~(f) significant historic heritage value.

Policy 13.1.1 identifies four significant matters upon which the adverse effects of activities are to be avoided. These matters are given particular direction through the principles of the RMA (Sections 6(a), (b), (c) and (f)) and through direction provided by Policies 11, 13, 15 and 17 of the NZCPS. However, it is important to acknowledge that implementing the policy does not mean that all activities are prohibited from occurring in the areas with the identified values; it simply makes clear that any adverse effects of activities must be avoided in those areas, rather than being mitigated or remedied.

[RPS, R, C, D]

Policy 13.1.2 – Areas identified in Policy 13.1.1 ~~as having significant values~~(a),(b),(c), (f) above will be mapped to provide certainty for resource users, Marlborough's tangata whenua iwi, the wider community and decision makers. Areas identified in (c) and (d) above will be identified on a case by case basis using consistent criteria to ensure consistency in assessments and to provide certainty.

Mapping areas identified in Policy 13.1.1 as having significant values will provide decision makers and the community with a greater level of certainty regarding where the adverse effects of subdivision, use and development activities are to avoided. Mapping also assists applicants in considering either different locations for their activity or ways in which adverse effects of their activity can be avoided. In addition to mapping the significant areas, Appendices 1 and 2 describe the specific values for landscape and natural character (respectively) that contribute to making the mapped areas significant.

While the Council has undertaken various assessments and studies to inform which areas have been mapped in Policy 13.1.1, not all areas within the coastal environment have been assessed. This is because for certain values, such as significant marine biodiversity, the only information available is on known sites recorded through processes such as resource consent applications. Given the resources required for more extensive assessment, it is not possible for all areas of the coastal marine area to be surveyed. As more information becomes available new areas can be added through a notified plan change under the First Schedule process of the RMA.

Comment [N2]: As worded this policy is incomplete. It fails to identify other specific areas where adverse effects must be avoided. This is inconsistent with Chapter 8 PMEP (in particular Policies 8.3.1 and 8.3.2) and so also fails to give effect to the NZCPS.

Comment [N3]: Amendments to Policy 13.1.2 are required to make it consistent with Policy 13.1.1. The policy should identify how the different areas subject to Policy 13.1.1 are to be identified.

[RPS]

Objective 13.2 – Subdivision, use or development activities take place in appropriate locations and forms and within appropriate limits.

As important as it is to identify areas where adverse effects of activities are to be avoided, it is also important that regard is given to identifying appropriate areas, limits and forms in which subdivision, use and development activities can take place. This must be done within a context of recognising and providing for particular values in terms of the principles of the RMA, as well as within the enabling direction provided through Policy 6 of the NZCPS.

[RPS, R, C, D]

Policy 13.2.1 – The appropriate locations, forms and limits of subdivision, use and development ~~activities in Marlborough's coastal environment are those that recognise and provide for, and otherwise avoid, remedy or mitigate adverse effects on the following values~~is determined by the following factors::

(a) the characteristics and qualities that contribute to natural character, natural features and landscape of an area and how the Plan requires effects to be managed;

(b) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga;

(c) the extensive area of open space within the coastal marine area available for the public to use and enjoy, including for recreational activities;

(d) the importance of public access to and along the coastal marine area, including opportunities for enhancing public access;

(e) the dynamic, complex and interdependent nature of coastal ecosystems;

(f) the high level of water quality generally experienced in Marlborough's coastal waters; and

(g) those attributes that collectively contribute to individual and community expectations about coastal amenity values.

Comment [N4]: The chapeau to this policy is confusing and should be reworded. The intent of the policy appears to be to identify factors which determine (a) whether an area is appropriate for subdivision use and development (b) whether a particular proposal is appropriate.

While the values identified in the policy may not have the same level of significance as those set out in Policy 13.1.1, they are nonetheless important considerations in determining whether an activity is appropriate at a particular location or of an appropriate form or scale. Some of these matters have direction through the principles of the RMA; for example, those related to public access and amenity values. Others have come about in response to a community expression of what is important to recognise and provide for in the coastal environment. An example of this is subclause (f) in relation to the generally high levels of water quality found in Marlborough's coastal waters. Collectively, these values also give effect to a number of policies within the NZCPS.

These values are to be considered in any application for resource consent or plan change, in addition to the management framework that may apply to specific activities as set out in the remainder of this chapter.

[RPS, R, C, D]

Policy 13.2.2 – In addition to the values in Policy 13.2.1, the following matters shall be considered by decision makers in determining whether subdivision, use and development activities in Marlborough's coastal environment are appropriate at the location proposed and of an appropriate scale, form and design:

(a) the contribution the proposed subdivision, use or development activity makes to the social and economic wellbeing of people and communities;

(b) the efficient use of the natural and physical resources of the coastal environment;

(c) whether the efficient operation of established activities that depend on the use of the coastal marine area is adversely affected by the proposed subdivision, use or development activity;

(d) whether there will be an increase in the risk of social, environmental or economic harm from coastal hazards as a consequence of the subdivision, use or development activity;

(e) whether there will be a contribution to the restoration of the values of the coastal environment at the site, where these may have been adversely affected in the past;

(f) whether the activity results, either individually or cumulatively, in sprawling or sporadic patterns of subdivision, use or development that would compromise the values and matters of Policies 13.2.1 and 13.2.2;

(g) whether the proposed subdivision, use or development activity contributes to the network of regionally significant infrastructure identified in Policy 4.2.1;

(h) whether the subdivision, use or development activity creates a demand for services or infrastructure that may result in a financial cost to the wider community and/or whether the safety and efficiency of the road network is affected; and

(i) functionally, whether some uses and developments can only be located on land adjacent to the coast or in the coastal marine area.

This policy describes the matters important in determining the appropriateness of subdivision, use and development activities in the coastal environment. Though the matters listed are not considered 'values' (as set out in Policies 13.1.1 and 13.2.1), some have direction through NZCPS policies, particularly Policies 4, 6, 7, 8, 9 and 25. These matters are to be considered in any application for resource consent or plan change, in addition to the management framework that may apply to specific activities as set out in the remainder of this chapter.

[RPS, C]

Policy 13.2.3 – To enable periodic reassessment of whether activities and developments are affecting the values of the coastal marine area, to encourage efficient use of a finite resource and in consideration of the dynamic nature of the coastal environment:

(a) lapse periods for coastal permits will be no more than five years; and

(b) the duration of coastal permits granted for activities in the coastal marine area for which limitations on durations are imposed under the Resource Management Act 1991 will generally be limited to a period not exceeding 20 years.

The RMA allows consents within the coastal marine area to be granted for a maximum of 35 years. A 20 year period has historically been used for most coastal occupations in Marlborough, as the Council has considered this duration appropriate.

Shorter durations are considered appropriate when:

- the coastal marine area is public open space that is used or valued for a range of different reasons;
- there are growing pressures and increasing demand for coastal space;
- there are changing and challenging issues facing use of coastal resources;
- the coastal environment is of a dynamic nature, constantly changing; and
- matters of national importance in the RMA need to be recognised and provided for on an ongoing basis.

Limiting coastal permits to a 20 year duration enables the impacts of resource use on the values of the coastal environment to be reassessed. At times a shorter duration may be appropriate, where the adverse effects of a proposed activity are not well understood or are uncertain. It may not be appropriate to manage the adverse effects through consent conditions, so where this is the case a shorter duration consent may be necessary. For similar reasons, it is appropriate that the lapse period for resource consents to be implemented in the coastal environment will be no more than five years.

[RPS, R, C, D]

Policy 13.2.4 – Attributes that may be considered when assessing any effects on coastal amenity value in a particular location include natural character, biodiversity, public access, visual quality, high water quality, recreational opportunities, structures and activities, open space, tranquillity and peacefulness.

Section 7(c) of the RMA requires that in managing the use, development and protection of natural and physical resources, particular regard shall be had to the maintenance and enhancement of amenity values. The RMA defines amenity values as "*those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.*" It is therefore important to identify what attributes contribute to coastal amenity values. Not all of the attributes identified will be relevant in all locations; amenity values will be different for different locations within Marlborough's coastal environment. This is the reason why 'may' is used within the policy.

[RPS, R, C, D]

Policy 13.2.5 – Amenity values of the coastal environment can be maintained and enhanced by:

(a) **recognising the contribution that open space and natural character make to amenity values and providing appropriate protection to areas of open space;**

(b) **maintaining ~~and enhancing~~ coastal and freshwater quality and enhancing it where it is degraded or required to achieve specified values or quantitative targets. ~~where necessary~~;**

(c) **maintaining or enhancing areas with indigenous biodiversity value;**

(d) **maintaining or enhancing sites or areas of particular value for outdoor recreation;**

(e) **making use of suitable development setbacks to avoid a sense of encroachment or domination of built form, particularly in areas of public open space and along the coastal edge;**

(f) **avoiding forms and location of development that effectively privatise the coastal edge and discourage or prevent access to and use of the coast;**

(g) **recognising that some areas derive their particular character and amenity value from a predominance of structures, modifications or activities, and providing for their appropriate management;**

(h) **establishing standards for activities within the coastal environment;**

(i) **clustering together of structures and activities;**

(j) **avoiding the establishment of activities resulting in high traffic generation;**

(k) **ensuring the operation and speed of boats does not detract from people's enjoyment of the coastal marine area or cause navigational safety issues;**

(l) **requiring the removal of derelict or redundant structures within the coastal marine area; or**

(m) **~~encouraging~~ requiring appropriate design of new structures and other development in form, colour and positioning that complement, rather than detract from, the visual quality of the location.**

Comment [N5]: Policy 13.2.5(b) is incorrect. As currently formulated the provision reads that maintenance is only required where necessary. This is incorrect. Under the NPSFM and s30(1)(c)(ii) maintenance of water quality is required. Enhancement of quality is required where quality is degraded or to reach water quality targets.

Comment [N6]: Policy 13.2.5(m) is not sufficiently directive. Appropriate design is an important and relatively straight forward tool to ensure develop is visually compatible with the environment and should be required either through permitted standards or through consent conditions.

The quality and characteristics of the environment within which people live, work and play is a fundamental part of our quality of life. In this context, the amenity of the coastal environment contributes to how people and communities provide for their social, economic and cultural wellbeing. In order for community wellbeing to be sustained, it is important to maintain the attributes that contribute to amenity values in any particular area. Policy 13.2.5 will help to protect people and communities' sense of place, appreciation and enjoyment of the coastal environment. Consideration of these values will be important in assessments of resource consents, as well as in the establishment of permitted activity rules and standards.

[RPS, R, C, D]

Policy 13.2.6 – In determining the extent to which coastal amenity values will be affected by any particular subdivision, use and/or development, the following shall be considered:

(a) individual and communities values about the area subject to application;

(b) the amenity related attributes of the area; and

(c) in regard to the changing nature of the coastal environment, the extent to which amenity values would be so affected by the proposed subdivision, use or development that those values could no longer be maintained or enhanced.

To determine whether coastal amenity values will be adversely affected by any proposed subdivision, use or development, it is important that regard is had to the views of individuals and communities about the area concerned. These can then be considered alongside an evaluation of the amenity related attributes of the area. An assessment then needs to be made about the extent to which those values and attributes will be affected by the proposed subdivision, use or development. In this assessment it is important that the dynamic nature of the coastal environment is considered, as community views change over time.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[C, D]

13.M.1 Zoning

The use of specific coastal based zones to provide a management framework for Marlborough's coastal environment include a Coastal Living Zone, Coastal Marine Zone (coastal marine area), Port Zone, Port Landing Area Zone, Marina Zone, Lake Grassmere Zone and a Coastal Environment Zone (rural land areas). Additionally, there will be Open Space zones for recreational and conservation areas and a Floodway Zone alongside rivers in some locations. For land not otherwise zoned as Coastal Living within the coastal environment of the south Marlborough coast, a Rural Environment Zone will apply.

[RPS, R, C, D]

13.M.2 Mapping of significant values

A range of values have been mapped in the MEP to assist in identifying areas with significance for landscape, natural character, marine biodiversity value (including coastal wetlands) and historic heritage within Marlborough's coastal environment. Policies provide management direction on how effects on the mapped values are to be assessed.

[RPS, R, C, D]

13.M.3 Information

Appendix 2 describes the values of areas that have been mapped with high, very high or outstanding natural character. Appendix 1 describes the values of areas that have been mapped with landscape significance. Identifying the values that make the mapped areas significant will

help resource users determine whether these values will be adversely affected by the proposed activity.

While the Council has undertaken various assessments and studies to inform the areas that have been mapped in Policy 13.1.1, not all areas within the coastal environment have been assessed. This is because for certain values, such as significant marine biodiversity, the information is incomplete. Where information becomes available this can be reflected through plan changes under the First Schedule process of the RMA.

[R, C, D]

13.M.4 Regional and district rules

A range of regional and district rules enable the use of the various coastal management zones as permitted activities, especially where there are minimal adverse effects on the environment. These activities will be subject to standards, including amenity based standards. Rules will also require coastal permits for activities in the Coastal Marine, Port and Port Landing Area and Marina Zones, where these activities need a greater level of control. These rules are described further under the subsequent sections of this chapter. Additionally, other chapters of the MEP also have regional rules for some activities that may affect the coastal environment; for example, discharges to air, land and water. Descriptions of these regional rules are set out in other chapters.

[C]

13.M.5 Affected party status

The Harbourmaster and Maritime New Zealand will be treated as affected parties in respect of any resource consent application for a coastal permit, to enable an assessment of any potential impacts on safe navigation of boats.

[C]

13.M.6 Other legislation

As a harbour authority, the Council also has responsibilities for navigation and public safety within the harbour limits. The Council's Harbourmaster carries out these functions under Local Government Act bylaws, delegations under the Maritime Transport Act and associated maritime rules (or any successor to these). Bylaws also impose additional constraints on speed, e.g. the five knot harbour speed limit.

Recreational activities

Marlborough's coastal environment is valued not only for its natural qualities but also for a wide range of recreational activities including swimming, fishing, diving, boating, kayaking, picnicking and walking. Marlborough's coastal environment, especially the Marlborough Sounds, is a centre of recreational activity for both local residents and visitors. This includes the use of many holiday homes located within the Marlborough Sounds from which recreational activity occurs. Consequently, the coastal environment (which includes the coastal marine area) plays an essential role in the social wellbeing of New Zealand in general and the Marlborough community in particular. This in turn has economic benefits for Marlborough, as many of these recreational activities rely on local businesses for the provision of services and goods.

Issue 13B – Providing for social wellbeing by ensuring people and communities can carry out recreational activities.

Recreation is one of the most extensive uses undertaken within Marlborough's coastal environment, especially within the Marlborough Sounds. Recreational activities range from active to passive pursuits. Much of the value placed on the coastal marine area is derived from the fact that it is the largest area of public open space in Marlborough and the public have a long held

expectation that they have a right to use and enjoy this area for a variety of purposes. They place significant amenity value on the coastal environment and its use for recreation. This environment therefore needs to be safeguarded for future generations.

Due to the range of recreational activities undertaken and the large number of users, the natural and physical resources of the coastal environment are at times placed under pressure. The cumulative effects of recreational use can include littering, sewage disposal from boats, damage to coastal vegetation and benthic (organisms that live in or on the bottom sediments) habitat and conflicts between users, all of which detract from public enjoyment of this area. There is also potential for conflict to arise between recreational and other users of the coastal environment; there may therefore be a need to manage activities in particular areas to avoid these conflicts.

[RPS, R, C, D]

Objective 13.3 – Recreation continues to make a significant contribution to people's health and wellbeing and to Marlborough's tourism industry, whilst avoiding adverse effects on the environment.

Given the extent of Marlborough's coastline and the fact that the coast is readily accessible for many people, outdoor recreation both on land and in the sea is one of the most important activities that take place within this environment. The diversity of recreational opportunities available is a major reason for its popularity with local residents and domestic and international tourists. Over time these recreational activities have become a significant contributor to Marlborough's tourism industry. Additionally and significantly, recreation contributes to the health and wellbeing of local communities.

[R, C, D]

Policy 13.3.1 – A permissive approach to recreational activities will be adopted, except where these:

- **(a) require associated structures and occupy the coastal marine area;**
- **(b) cause adverse environmental effects, including those resulting from discharges of contaminants, excessive noise and damage to significant indigenous vegetation and significant habitats of indigenous fauna;**
- **(c) do not maintain or enhance public access to and along the coastal marine area;**
- **(d) endanger public health and safety;**
- **(e) compromise authorised uses and developments of the coastal marine area; or**
- **(f) adversely affect the amenity values of the area.**

Recreation is arguably the most significant way in which the general public gain direct benefit from the coastal environment. Therefore, such activity should be permitted unless it requires associated structures, occupies the coastal marine area in terms of Section 12 of the RMA, or causes adverse effects such as those identified in (b) to (f).

[C]

Policy 13.3.2 – Maintain and enhance opportunities for recreational use of the coastal marine area.

Recreational use of the coast is likely to increase and become more diverse in the future. Linked with national direction to recognise and provide for public access to and along the coastal marine area as a matter of national importance, the Council considers there is a need to maintain and enhance opportunities for recreational use of the coastal environment.

[C, D]

Policy 13.3.3 – Ensure that the use of recreational vessels and vehicles does not create a public nuisance, compromise the health and safety of other users or result in adverse effects on the coastal environment.

While recreational activity is generally to be encouraged, the use of recreational vessels and vehicles can, by virtue of their speed, noise or associated discharges, become a public nuisance and inappropriate use may pose a risk to both public health and safety and the environment. For recreational vehicles onshore, it may be necessary to prevent their use in some locations, particularly to minimise risks to public health and safety, physical damage to the foreshore area, damage to intertidal areas, direct damage to indigenous flora and/or harm or disturbance of wildlife.

[RPS, C]

Policy 13.3.4 – Ensure recreational use has priority over commercial activities that require occupation of the coastal marine area in Queen Charlotte Sound, including Tory Channel. (This policy does not apply to areas zoned Port or Marina.)

The policy recognises that for Queen Charlotte Sound and Tory Channel, recreational use is significant and is to have a priority over commercial interests that require occupation of the coastal marine area. Recreational use is particularly important in these areas, with a large number of holiday homes being a base for recreation and with good access points in Picton and Waikawa (including through launching ramps and marinas). Historically, activities such as marine farming have been prevented from occurring in these areas because of the extent of recreational activities. The exclusion of Port and Marina Zones in Queen Charlotte Sound acknowledges the establishment of these zones for port and marina activities within which recreational activities may not be appropriate.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[R, C, D]

13.M.7 Regional and district rules

A range of regional and district rules enable recreational activities as permitted activities, especially where there are minimal adverse effects on the environment. These activities will be subject to standards, including amenity based standards. In some cases, a prohibited activity rule may apply to protect recreational use. The rules are described further under the subsequent sections of this chapter.

[C, D]

13.M.8 Other legislation

As a harbour authority, the Council also has responsibilities for navigation and public safety within the harbour limits. The Council's Harbourmaster carries out these functions under Local Government Act bylaws, delegations under the Maritime Transport Act and associated maritime rules (or any successor to these). Bylaws also impose additional constraints on speed, e.g. the five knot harbour speed limit.

Fishing

The waters of the Marlborough Sounds are important for fisheries for a number of reasons, including:

- an ongoing source of traditional food for Marlborough's tangata whenua iwi;
- providing a livelihood for commercial fishers;
- being a significant factor in many recreational and tourism activities; and
- contributing to a range of species present in the Sounds and therefore the health of marine ecosystems.

(For the purposes of the MEP, 'fishing' does not include marine farming.)

Although commercial fishing is not as significant as it once was, collectively fisheries are still important to Marlborough's overall community wellbeing.

There are significant restrictions on the ability of the Council to control outcomes for fisheries management, as the Ministry for Primary Industries holds the primary role in managing, conserving and enhancing fisheries under the provisions of the Fisheries Act 1996. However, although managing fisheries is not a direct function of the Council, it is responsible for protecting habitats of indigenous fauna and maintaining indigenous biological diversity under the RMA. The Council can therefore indirectly help to maintain and enhance wild fisheries in the Marlborough Sounds by managing any adverse effects on marine habitats caused by activities over which it does have direct control. Policies within Chapter 15 - Resource Quality (Water, Air, Soil) and Chapter 8 - Indigenous Biodiversity are particularly relevant in this regard.

Issue 13C – The depletion of wild fisheries in the Marlborough Sounds.

Maintenance of traditional access to fisheries is of particular importance to Marlborough's tangata whenua iwi. There is particular concern that traditional fisheries are being depleted. Under fisheries legislation, taiapure, rāhui and mataitai are three mechanisms by which tangata whenua can seek greater control of the management of local customary fisheries. Though the Council has no statutory role in either the establishment or management of these mechanisms, it may choose to support an application after consultation with interested parties.

Although the number of commercial fishers has decreased over the years, fishers with quota for various species still operate from Picton, Havelock and other ports. While numbers can fluctuate in response to economic circumstances, recreational fishing and diving are important recreational pursuits for Marlborough residents and visitors to the Marlborough Sounds. For a number of years there has been ongoing community concern over the state of fish and shellfish stocks in the Marlborough Sounds and the sustainability of the recreational fisheries that they support.

[RPS, C]

Objective 13.4 – The sustainable management of fisheries in the Marlborough Sounds.

Despite not having a direct statutory role in managing fisheries (except to the extent outlined above), the Council believes it has an advocacy role in ensuring there is sustainable fishery in the Marlborough Sounds. This is because fishing activities, whether recreational, commercial or traditional in nature, contribute to the economic, social, cultural and general community wellbeing of Marlborough's residents and visitors. It is therefore appropriate that the MEP includes an objective to ensure the management of fisheries resources is sustainable.

[RPS, C]

Policy 13.4.1 – Support and advocate for intensive management of recreational and commercial fishing within the enclosed waters of the Marlborough Sounds.

Currently, the Marlborough Sounds are part of the Challenger Fisheries Management Area, which extends north from the Clarence River, through Cook Strait and the Marlborough Sounds, west to Farewell Spit and down the west coast of the South Island. This area contains both open coastal water, near shore areas and the enclosed waters of the Sounds. Although there are restrictions that apply to different parts of this extensive area (including within the Marlborough Sounds), the Council believes that an intensive management regime needs to be applied to the Marlborough Sounds specifically, rather than as part of a much larger management area. This recognises the continued increased pressure on fisheries, especially from recreational fishing.

[RPS, C]

Policy 13.4.2 – Support community groups working towards a sustainable fishery for the Marlborough Sounds.

Often local community groups provide the initial impetus for responding to issues and it is important to support these groups where possible.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[RPS, C]

13.M.9 Advocacy/Support

Advocate to the Minister of Fisheries that both commercial and recreational fishing be further regulated within the enclosed waters of the Marlborough Sounds to enhance natural fisheries.

Support initiatives of community groups working towards sustainable fisheries by providing advice and financial support where resources permit.

Residential activity

Like many others locations around the country, Marlborough's coastal areas are an attractive place for people to live. The Marlborough Sounds especially have long been a desirable location in which to live and holiday, with approximately 5,000 houses and holiday homes established. These dwellings and their associated jetties, boatsheds and moorings are obviously already part of the landscape in the locations in which they occur, especially the inner parts of Queen Charlotte, Pelorus and Kenepuru Sounds. The density of residential use varies, ranging from baches in isolated bays (used on an intermittent basis) to ribbon development along the coastline. The density of residential activity decreases with distance from the access points of Picton and Havelock, so large parts of the outer Sounds are empty of structures.

The south Marlborough coast is much less developed for residential living, although the Rarangi settlement has provided a coastal living experience for people for many years, as has an area of larger lifestyle blocks closer to the Wairau Diversion. Generally however, the southern coast experiences a lower level of pressure for living in coastal areas than does the Marlborough Sounds.

Issue 13D – There is pressure to use, develop and subdivide land for residential purposes within the coastal environment.

Historically, the demand for residential properties in Marlborough's coastal areas has been satisfied through:

- the development of new residential dwellings on vacant lots (within permitted activity provisions for residential or rural zones);
- the extension, alteration or reconstruction of existing residential dwellings; and
- the creation of new residential allotments from rurally zoned land.

In any one of these situations there is potential for residential activity to detract from the qualities and values of the coastal environment. This is particularly so in a Marlborough Sounds context, where the MEP has identified the Sounds as being 'the jewel in Marlborough's crown' (Issue 4C, Chapter 4 - Use of Natural and Physical Resources). At any particular location these qualities and values, along with physical factors, place constraints on whether residential activity is appropriate within the coastal environment.

The construction of houses and holiday homes in areas where structures are absent from the landscape is likely to stand out and potentially detract from the "natural" appearance of that landscape. Even in areas where there are existing houses and holiday homes, buildings in prominent locations, large buildings and buildings with bright and bold colours, can detract from the landscape.

New residential buildings obviously allow more people to be accommodated, either permanently or temporarily, in a particular location. Potentially, the more people who live within and use an area, the less likely it is that the special qualities currently valued by existing residents will continue to be enjoyed. The degree of impact will be perceived differently from person to person, depending on our own values and experiences.

Other factors affecting the appropriateness of residential activity in the coastal environment include the ability for onsite disposal of domestic wastewater, impacts arising from natural hazards, difficulties in accessing remote areas and the impacts of residential activity on water quality, water quantity and indigenous biodiversity. Some of these factors may also have flow-on effects for other users of the coastal environment and the manner in which these constraints are dealt with will determine how the demand for residential activity will be managed in Marlborough's coastal environment.

The subdivision of land determines where new residential buildings will be located and the density of residential development. Managing the subdivision of land is therefore as important in retaining the character of the coastal environment as managing subsequent residential development.

[RPS, D]

Objective 13.5 – Residential activity takes place within appropriate locations and limits within the coastal environment.

As demand for people to live or holiday in Marlborough's coastal environment increases, it is important that these activities occur within appropriate locations and limits, to ensure that the qualities and values of the coastal environment are maintained and/or enhanced. This objective reflects that aim and is supportive of Objective 6 of the NZCPS, an enabling objective for people and communities to provide for their wellbeing and health and safety through subdivision, use and development. The objective requires (among other things) that in protecting values of the coastal environment, this does not preclude use and development in appropriate places and forms, and within appropriate limits.

[D]

Policy 13.5.1 – Identify areas where residential activity can take place.

Areas determined as appropriate for residential activity are zoned as Coastal Living Zones. The Coastal Living Zone recognises the need and demand that exists for residential activity in Marlborough's coastal environment and applies to areas where development already occurs but which maintain a high level of amenity associated with the coast. These areas, zoned as Sounds Residential in the former Marlborough Sounds Resource Management Plan, have been identified as having an ability to absorb further low density, mainly rural residential development, without detriment to overall coastal character. Additionally, areas at Rarangi formerly zoned as Township Residential and Rural Residential have also been zoned as Coastal Living.

[D]

Policy 13.5.2 – Residential activity and subdivision for residential purposes should take place within land that has been zoned Coastal Living, in order to:

(a) protect recreational and coastal amenity values;

(b) avoid sprawling or sporadic patterns of residential development; and

(c) protect landscape, natural character and indigenous biodiversity values.

It is important that limitations are placed on where residential activity can take place within Marlborough's coastal environment. If unrestricted development were allowed, the very values that make the coastal environment special would be threatened, particularly within the Marlborough Sounds. The policy therefore is important in identifying the appropriate locations for residential activity, are those provided through the resource of the Coastal Living Zone in conjunction with the enabling provision of Policy 13.5.5. This approach helps to give effect to the policies of the NZCPS, as well as achieving the overriding objective for the Marlborough Sounds in Chapter 4 - Use of Natural and Physical Resources of the MEP, in which the '*visual, ecological and physical qualities that contribute to the character of the Marlborough Sounds*' is maintained and enhanced.

The policy directs that residential activity and subdivision for residential purposes '*should'* occur within the Coastal Living Zone, though this is not absolute. This is because there may be occasions where through restoration works, enhancement of values or offsetting adverse effects, positive environmental outcomes can be achieved. Regard must be had to the other policies of the MEP (especially those regarding natural character, landscape, public access and biodiversity) to determine whether this is a relevant matter for consideration.

[D]

~~**Policy 13.5.3 – Recognise there is an existing stock of land within the coastal environment that could be developed for residential activity to meet the needs of the community.**~~

~~There are many areas within the Coastal Living Zone and the Coastal Environment Zone that could be developed for residential activity. Areas zoned as Coastal Living include areas zoned as Sounds Residential in the former Marlborough Sounds Resource Management Plan and areas of Township Residential and Rural Residential in the Rarangi area of the former Wairau/Awatere Resource Management Plan. There is capacity within these zoned areas for further residential activity to occur. Additionally, there are allotments within the Coastal Environment Zone that do not currently have a dwelling on them but where residential activity could take place, subject to meeting standards.~~

Comment [N7]:
The utility of this policy is not clear. The provisions direct subdivision and development towards the Coastal Living Zone. However this policy appears to conflict with that by earmarking all coastal zones as being available for residential development. This is opposed. Development should be directed towards the CLZ which has been specifically designed and designated for that purpose. It should not be actively provided for in the Coastal Environment Zone.

[D]

Policy 13.5.4 – Avoid expansion of residential activity in Rarangi beyond those areas already zoned for this purpose, due to uncertainty over tsunami risk, the fragile local ecology and insufficient infrastructure to support expansion.

In considering areas for urban expansion, the Council has assessed the potential for Rarangi to accommodate further growth. The outcome of the assessment was that there is uncertainty

around the level of hazard posed by tsunamis, uncertainty over the ability to secure a water supply that meets drinking water standards, and that the Rarangi wetland system is a fragile ecological system vulnerable to further development. For these reasons the Council has decided not to provide for any expansion of the current zoning for residential activity in this area.

[D]

Policy 13.5.5 – Except in the case of land developed for papakāinga, residential activity on land zoned Coastal Environment will be provided for to a limited extent by enabling:

(a) one dwelling per Computer Register;

(b) seasonal worker accommodation; and

(c) homestays.

For property within the coastal environment but outside of the Coastal Living Zone, it is appropriate that the MEP provides for residential activity. In some cases, ongoing primary production activities will occur and therefore it is appropriate that provision is made for any residential activity associated with this. This includes seasonal worker accommodation. There may also be smaller allotments where primary production activities do not occur but where historically there has been a right, subject to standards, for a landowner to erect a dwelling. The MEP continues with this approach, as it provides in part a resource able to be developed for residential activity, without the need for further subdivision or rezoning of land. Provision is also made for homestays. The exception recognises the need for Marlborough's tangata whenua iwi to be able to develop Māori land for papakāinga to enhance the quality of life for whānau and iwi in a manner that is consistent with their cultural values and customs.

[RPS, D]

Policy 13.5.6 – Maintain the character and amenity values of land zoned Coastal Living by the setting of standards that reflect the following:

(a) strong connection to the foreshore and coastal water;

(b) peaceful environments with relatively quiet background noise levels;

(c) predominance of residential activity by enabling one dwelling per Computer Register;

(d) privacy between individual residential properties, often surrounded by indigenous and regenerating indigenous vegetation;

(e) ample sunlight to buildings;

(f) minimal advertising signs;

(g) views to the surrounding environment, including to the sea;

(h) low building height; and

(i) limited infrastructure and services and low volumes of road traffic.

(j) Colour.

~~(i)~~(k) Locating away from sensitive areas.

This policy sets out the characteristics that reflect land zoned as Coastal Living and for which standards have been considered necessary to be established through the permitted activity rules.

[D]

Policy 13.5.7 – Where resource consent is required, ensure that residential development and/or subdivision within the Coastal Living Zone is undertaken in a manner that:

(a) is consistent with the matters set out in Policy 13.5.6;

(b) is appropriate to the character of the locality in which the property is to be subdivided;

(c) provides for the maintenance of the attributes contributing to coastal amenity values of the locality, as expressed in Policies 13.2.4 and 13.2.5;

Comment [N8]: Subdivision and development should be directed towards the Coastal Living Zone. Ensuring that the provisions relating to the Coastal Environment Zone clearly limit development is an important tool in providing that direction. Policy 13.5.5 should be clear that residential activity in the Coastal Environment Zone is limited to very specific scenarios.

Comment [N9]: Policy 13.5.6 does not identify what standards should be set for e.g. building, use, etc. For clarity it should. It should also identify color and locating away from sensitive areas are important elements to be incorporated into those standards.

(d) maintains and/or enhances the recreational values of the area for the wider community;

(e) is certain the site is able to assimilate the disposal of domestic wastewater; and

(f) ensures the effects of any natural hazards are able to be avoided, remedied or mitigated.

Where resource consent is required for subdivision or development within the Coastal Living Zone, the matters in this policy will help to determine whether the subdivision or development is appropriate. In particular, matters concerning the character of the locality and coastal amenity values are important in terms of having regard to Sections 7(c) and 7(f) of the RMA. Other matters concerning the on-site discharge of domestic wastewater are equally important and regard is to be had to the policies of Chapter 16 - Waste to assist in giving effect to this policy.

[D]

Policy 13.5.8 – Non-residential activities within the Coastal Living Zone will be allowed, where they do not detract from the existing character of the residential environment within which they are to be located.

As the Coastal Living Zone has been established to accommodate residential activity, recognising the desire of many New Zealanders to live or holiday beside the sea, it is important that these areas are predominantly used for this purpose. Some non-residential activities, especially those carried out within an existing dwelling, will have limited impact on the characteristics of the Zone and are therefore provided for as a permitted activity. However, other non-residential uses will be assessed through the resource consent process to determine their impact on the characteristics of the residential environment in which they are to be located.

[D]

Policy 13.5.9 – Where there is no road access to a site to be developed or subdivided for residential purposes or where the predominant means of access will be by water, the need for and location of coastal structures and associated tracking (if relevant) to enable/enhance access shall be considered at the time of subdivision or, in the case of development, if there is a resource consent requirement to enable the development.

This policy is particularly relevant to the Marlborough Sounds, where the road network is limited as a result of the nature of the topography and the difficulties in establishing roads in the steep terrain. For this reason, many property owners (both commercial and private) rely upon boats to gain access to their properties. This has resulted in a demand for coastal structures such as jetties, moorings and boatsheds. The appropriateness of these structures must be assessed and this should occur at the same time as the subdivision or development is assessed by the Council. This will enable the effects of the entire proposal to be considered at once, including any related need for tracking between the coastal structure and the dwelling.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[D]

13.M.10 Zoning

The Coastal Living Zone is a specific zone established for residential activity within the coastal environment for both the Marlborough Sounds and along the south Marlborough coast.

[D]

13.M.11 District rules

A range of district rules will guide development within both the Coastal Living and Coastal Environment Zones. These rules will provide for residential activity and non-residential uses as a permitted activity subject to meeting standards for bulk and location of structures, disposal of

domestic wastewater, stability of the land, reflectivity of buildings, etc. Rules will specify minimum allotment standards and enable the development of papakāinga, subject to standards.

Boat moorings and anchoring

The enclosed waterways of the Marlborough Sounds offer many recreational boating opportunities to both residents of Marlborough and visitors. Commercial use of boats and other craft is a significant feature of the District's tourism, marine farming and fishing industries. While many of the smaller recreational craft are stored on dry land and have no need for water-based storage, many boats do need some form of mooring, berthage or other method of storage.

Moorings generally provide a convenient and readily available form of boat storage. Consequently, there are high-density moorings in areas such as Waikawa Bay, Ngakuta Bay and Okiwa Bay. Individual moorings have also been established around the Sounds, providing a place for occasional recreational users and adjoining landowners to moor their boats. In some cases, a mooring is established for the use of boating club members or boat charter companies. These moorings are referred to as collective moorings.

Anchoring on a temporary basis is common in many places around the Sounds. This occurs for recreational purposes, where boats may overnight or, in some instances and particularly in recognised locations, provide for temporary shelter in bad weather. It is important that developments or activities in the coastal marine area do not affect the ability of the boating community to anchor in locations that are recognised anchorages.

Issue 13E – How and where to provide for mooring and/or berthage facilities in Marlborough's coastal environment.

Deciding how and where to provide facilities or areas where boats can be safely moored or anchored is an issue, given the wide range of economic, cultural and social values of Marlborough's coastal environment as well as significant natural character, landscape and biodiversity values.

Historically, many property owners within the Sounds relied on swing moorings to moor boats. This continues to be the case today, although many property owners now also seek other structures such as boatsheds and jetties to provide enhanced forms of access. In some areas, especially close to nodes of settlement, issues arise surrounding competing demand for coastal space for moorings, especially swing moorings. The location of such moorings must take into account navigational routes for boats, as well as sufficient separation from one another to ensure the safety of boats on other moorings.

For some people, especially those who do not own property in the Marlborough Sounds, the short term anchoring of boats is common. Some bays in the Sounds are recognised on navigational charts and in nautical publications as places for boats to anchor in certain wind conditions. However, the long term or permanent anchorage of boats can potentially give rise to adverse effects on the surrounding environment and other users of the coastal environment. These effects may include a reduction in water quality, loss or deterioration of benthic habitat, disturbance to marine species at important feeding sites, reduced amenity values, impacts on natural character or a reduction in public access or recreational opportunities. While it is important that recognised anchorages are available for use, it is also important that limitations are placed on longer term anchoring. Areas for large ship anchoring are identified on navigational charts and nautical publications.

[C]

Objective 13.6 – A range of options is available to accommodate mooring/berthage.

It is important that the MEP provides a range of options to accommodate the different needs and demands of a range of boat owners. Not every option will be appropriate in every location within Marlborough's coastal environment and the following objectives and policies describe the circumstances where each of the options may be considered appropriate.

[C]

Policy 13.6.1 – Provide for the mooring or berthage of boats by:

(a) enabling anchoring of boats;

(b) establishing Moorings Management Areas where there is high demand for space in the coastal marine area;

(c) ensuring moorings outside of Moorings Management Areas are sited in appropriate locations; and

(d) zoning specific areas for activities related to the operation of marinas, ports and port landing areas in Picton, Havelock, Waikawa, Elaine Bay and Oyster Bay.

The four options provided for in this policy reflect both historic and recent approaches to mooring or berthage of boats in Marlborough's coastal environment. Options a) to c) are applicable to the Coastal Marine Zone, while option d) is specific to Port, Port Landing Area and Marina Zones. (The remaining policies under Issue 13E are therefore not relevant considerations in the Port, Port Landing Area and Marina Zones.)

Boat anchorages

[C]

Objective 13.7 – The coastal marine area is able to be used for anchoring boats.

Boat anchoring has long been considered an appropriate use within the coastal marine area, particularly for recreational use but also for commercial boats. The objective seeks to enable use of the coastal marine area for this purpose.

[C]

Policy 13.7.1 – Enable use of the coastal marine area for temporary anchoring by boats.

Boats of all sizes are reliant on being able to anchor for recreational purposes, during storms or in the event of damage or gear failure. An enabling approach to providing for this on a temporary basis has been provided, subject to meeting standards.

[C]

Policy 13.7.2 – Restrict the long-term or permanent anchorage of boats.

The long-term or permanent anchorage of boats in one location can potentially give rise to adverse effects on the surrounding environment and other users of the coastal environment. These effects could include reduction in water quality, amenity values, public access, recreational opportunities or potential benthic habitat destruction. Therefore, it is appropriate that controls are imposed upon the ability of boats to anchor for long periods of time. This will help to achieve the policies of the NZCPS, especially Policy 6(2)(c), as well as a range of other policies in both the NZCPS and MEP relating to natural character, water quality, public open space and indigenous biodiversity.

Moorings Management Areas

[C]

Objective 13.8 – Efficient use of the coastal marine area where there is competing demand to occupy coastal space for swing moorings.

Where there is ongoing demand for coastal space for moorings as well as competing demand for other uses or activities in the same space, a comprehensive management regime must be in place to ensure that efficient use of the coastal marine area is achieved. This will help to minimise overlap between swing circles and therefore reduce the risk of damage to boats.

[C]

Policy 13.8.1 – Where there is competing demand in the coastal marine area to accommodate swing moorings, Moorings Management Areas may be established to manage the placement and use of swing moorings.

Moorings Management Areas are a relatively new concept, having been developed initially to manage conflicting demands with large numbers of swing moorings and other activities within Waikawa Bay. If a Moorings Management Area is established, it shall only be so through the plan change process of the First Schedule after having regard to the matters in Policy 13.8.2. These areas will be identified on the MEP maps.

[C]

Policy 13.8.2 – To determine the appropriateness of an area of coastal space to become a Moorings Management Area in the Marlborough Environment Plan, the following matters will be considered:

(a) current and anticipated demand for swing moorings in the area;

(b) the cumulative effect (including on coastal amenity values and benthic habitats) of swing moorings and the capacity of the area to accommodate existing and additional moorings;

(c) whether there are issues with the layout of existing swing moorings, including overlapping of swing circles;

(d) the intensity, character and scale of other activities in the area, including:

- **(i) the extent to which the use of or access to other coastal structures located in the area are or will be affected by additional swing moorings;**
- **(ii) residential development existing in the area and the potential for future development, having regard to the zoning of land;**
- **(iii) recreational activities occurring in the coastal marine area; and**

(e) impacts on navigation due to continuing with an uncontrolled approach to siting of swing moorings.

This policy describes the matters to be considered in assessing new locations to be managed as Moorings Management Areas. At the time the MEP was notified on 9 June 2016, the only Moorings Management Areas that had been identified were located in Waikawa Bay. These were established in response to the ongoing demand for moorings in the bay and the different uses competing for water space. It is likely that other areas of the Marlborough Sounds may in future see a high demand for coastal space for swing moorings. If demand reaches a point which results in inefficient use of coastal space, it may be appropriate to introduce Moorings Management Areas in other locations.

[C]

Policy 13.8.3 – Moorings located in a Moorings Management Area (as identified on the Marlborough Environment Plan maps) will be encouraged by:

- **(a) enabling them as a permitted activity, where a Moorings Management Bylaw is in place; or**
- **(b) where no Moorings Management Bylaw is in place, providing for moorings within a Moorings Management Area as a restricted discretionary activity. The matters the Marlborough District Council will restrict its discretion to in determining such an application will be:**
  - **(i) location within a Moorings Management Area;**
  - **(ii) the type and specification of mooring sought, including the swing arc; and**
  - **(iii) the availability of space within the Moorings Management Area.**

Once a Moorings Management Area has been established to more efficiently manage coastal space, moorings located within these areas can be controlled through a bylaw promulgated under the Local Government Act 2002 or through the resource consent process. This policy states that where a bylaw is in place, then moorings within the Moorings Management Area are a permitted activity. The bylaw will set up a licensing system for moorings in the identified areas. Where no bylaw is in place, a restricted discretionary activity consent will be required and the matters that the Council will limit its discretion to are identified in Policy 3.8.3(b).

Moorings outside Moorings Management Areas

[C]

Objective 13.9 – Outside of the Moorings Management Areas, other moorings are sited in appropriate locations.

Moorings Management Areas are only to be established where there is competing demand for coastal space. However, in many areas of Marlborough's coastal marine area there is space for competing demands to easily coexist. It is therefore recognised that it is not appropriate or possible for all moorings to be located within a Moorings Management Area and provision must be made within the MEP for moorings to be considered outside of these areas. It is important however that moorings are appropriately located, as they can individually or cumulatively have adverse effects.

[C]

Policy 13.9.1 –The following matters are to be assessed in determining the appropriateness of the location for a mooring:

- **(a) whether a Moorings Management Area with available space exists in the vicinity of the proposed mooring site;**
- **(b) what the proposed mooring is to be used for;**
- **(c) the potential for the mooring and any moored boat to adversely affect:**
  - **(i) the navigation and safety of other boats, including any other moored boat;**
  - **(ii) existing submarine cables, other utilities or infrastructure;**
  - **(iii) recreational use of the coastal marine area, including the short-term anchorage of other recreational boats;**
  - **(iv) amenity values of adjoining residents or land with high recreational value;**
  - **(v) the open space character of the coastal marine area;**

(vi) **the natural character, landscape or ecological values of the site, including on adjoining land and offshore islands;**

(vii) **the cultural and customary values of the site, including access for customary purposes; and**

(viii) **the operation of any existing activity or any activity that has been granted resource consent;**

(d) what practicable land-based storage options and/or alternative access points are available for the boat; and

(e) whether there will be a cumulative impact on the values of the coastal environment from a mooring in the proposed location.

This policy identifies the matters to be considered through the resource consent process in determining the appropriateness of a particular site for a mooring and its intended purpose, for example to provide access to an applicant's land, for moorings for commercial activities, for customary or collective use. The purpose of the mooring is an important consideration in determining the appropriateness of the proposal, as particular conditions may be relevant for one purpose but not another. The broad nature of the other matters identified reflects the wide range of activities and values of Marlborough's coastal environment.

[C]

Policy 13.9.2 – Subject to the matters in Policy 13.9.1, moorings will be limited by:

(a) regarding as appropriate the installation of one mooring per Computer Register or Computer Unit Title Register to enhance access to private property;

(b) regarding as inappropriate a mooring where the applicant does not own land in the vicinity of the proposed mooring location, except in the case of collective moorings; and

(c) linking resource consent to a particular property/commercial activity, where consent is granted for a mooring to provide access to an applicant's property or for a boat associated with a commercial activity undertaken in the vicinity of the mooring site. Consent must then be transferred to the new owner(s) on the sale of the property/commercial activity.

Moorings enhance use of private property in the Marlborough Sounds and can be important for commercial activities. However, because they are relatively simple structures and easy to install, landowners have often sought to have multiple moorings. This can create conflict with other users of coastal space and adversely affect a range of values of the coastal environment. Avoiding the proliferation of moorings by limiting numbers to one per property will help to avoid adverse effects and leave enough coastal space for other landowners to locate moorings. For those who do not own property but wish to access the Marlborough Sounds, a boat mooring will be regarded as inappropriate as other alternatives are available, including moorings within Mooring Management Areas, boating club (collective) moorings, temporary anchorage or marina berths. Additionally, the numbers of boat moorings can be reduced by requiring consents to be linked to a property or commercial business and requiring these consents to be transferred to a new property or business owner upon sale. The policy has been made subject to the matters in Policy 13.9.1 as there may be circumstances under which the need for a mooring falls outside the limitations specified in 13.9.1.

[C]

Policy 13.9.3 – Swing moorings should be sited to avoid the risk of collision with a boat on an adjacent swing mooring.

Multiple swing moorings at a number of locations around the Marlborough Sounds have created issues due to moored boats colliding with one another. To avoid this situation occurring in future, the policy directs that swing moorings are to be sited so that there is no likelihood of collision with another moored boat.

[C]

Policy 13.9.4 – The use of a mooring shall be limited to the size of boat for which consent was granted.

The size of a boat will dictate the size of anchor, swing circle and other specifications required for a swing mooring. The swing circle is an important factor in ensuring the safety of other moored boats. It is therefore important to ensure that a mooring is not used for any boat larger than that considered through the resource consent process. If a swing mooring is intended to be used for a boat larger than originally provided for, this needs to be reassessed through the resource consent process.

[C]

Policy 13.9.5 – Moorings shall be maintained and marked in a way that protects navigational safety, including by providing and maintaining adequate buoyage and anchoring systems.

As moorings are located within the public domain and in areas where there can be commercial, recreational or residential navigation, it is important that mooring structures are marked and maintained in good condition to remain visible and intact, ensuring public safety is protected. This will require compliance with relevant consent conditions.

[C]

Policy 13.9.6 – A mooring shall be required to be removed from the coastal marine area in the following circumstances:

- **(a) where there is no longer a need for a mooring to moor a boat;**
- **(b) where the existence of a commercial activity has been the justification for approving a coastal permit for a mooring and that commercial activity no longer exists or operates;**
- **(c) where a collective mooring is no longer to be used as a collective mooring;**
- **(d) when a coastal permit for the mooring expires and no new coastal permit has been sought; or**
- **(e) where consent is refused for an existing mooring for which a new consent has been sought.**

There may be circumstances where a mooring is no longer required. It is then appropriate for the mooring to be removed from the coastal marine area. This will help to achieve Policy 6(2)(e) of the NZCPS by promoting the efficient use of the coastal marine area. This policy will be achieved through conditions imposed upon resource consents granted. This policy will also help to ensure that the purpose for which consent was granted is continued.

[C]

Policy 13.9.7 – In determining an application for a new consent for a lawfully established existing mooring outside of a Moorings Management Area, the matters in Policies 13.9.1(b) and (c), 13.9.2 and 13.9.4 will be considered. The extent to which the existing mooring is consistent/inconsistent with the direction in these policies and whether the effects of any inconsistencies can be avoided, remedied or mitigated will be a significant factor in determining whether a new consent is granted.

The policies to be considered in an application for a new coastal permit for an existing mooring include matters that may be expected to change over time. This includes in particular, natural character, recreation, amenity values and public access.

[C]

Policy 13.9.8 – Avoid moorings outside of the Moorings Management Areas in Waikawa Bay and the Waka Mooring Management Area, except where the moorings are to provide access

to immediately adjoining properties, in which case the matters in Policy 13.9.1 are to be assessed in determining the suitability of the mooring in Waikawa Bay.

Waikawa Bay is a focal point for recreational boating activity but is also important for commercial and cultural activities. Given the competing demands to occupy and use coastal space in Waikawa Bay, Moorings Management Areas have been established to identify appropriate locations for moorings within the bay. New moorings outside the defined Moorings Management Area in Waikawa Bay are to be avoided, unless for the specific purpose of mooring boats associated with adjacent land. The MEP identifies specific locations for Moorings Management and Waka Management Areas within Waikawa Bay, which is the coastal marine area south of a line between The Snout and Karaka Point.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[C]

13.M.12 Moorings Management Areas

A specific regime is proposed for the management of moorings in the Marlborough Sounds where there is significant competition for coastal space. Moorings Management Areas may be established to avoid conflict with competing uses and users and to ensure efficient use is achieved.

[C]

13.M.13 Bylaw

Management of Moorings Management Areas will occur either through a bylaw promulgated under the Local Government Act or, if no bylaw is in place, through the resource consent process. The bylaw will establish a licensing system for the allocation and management of swing moorings within a Moorings Management Area, or swing moorings for waka within a Waka Mooring Management Area.

[C]

13.M.14 Regional rules

Short term anchorage of ships/boats will be enabled by a permitted activity rule.

Moorings within a Moorings Management Area will be provided for as a restricted discretionary activity, subject to standards and terms, unless a bylaw is in place that provides the management framework. If a bylaw is in place, moorings within the Moorings Management Area will be a permitted activity.

Where a mooring located outside of a Moorings Management Area is sought, a discretionary activity resource consent will be required.

[C]

13.M.15 Information

Publications such as 'The Pilot' and "The Cruising Guide' provide information on anchorages, as do navigational charts and directions from the Harbourmaster.

[C]

13.M.16 Monitoring and investigation

The Council will annually monitor the number and location of moorings for which resource consent has been granted. By 9 June 2021, and having regard to the monitoring information, the Council will determine whether investigations into establishing a carrying capacity for moorings in the Marlborough Sounds is necessary.

Coastal structures, reclamations and disturbance to the foreshore and seabed

Marlborough's coastal marine area is characterised by a number of activities that involve the erection of structures and/or disturbance of the foreshore or seabed. Due to their extensive and sheltered nature, the Marlborough Sounds are obviously a major focus for recreational and commercial activities and it is here that the issues surrounding how to provide for activities and allocate coastal space are most apparent. The Sounds contain a large number of permanent physical structures and occupations; for example, nearly 1,600 jetties, slipways, boatsheds and other structures (retaining walls, pipelines, sub-aqueous cables, boat ramps) are located throughout the Sounds. Some reclamations have occurred to enable port or marina operations to take place, while in certain remote locations reclamations assist in forestry harvesting activities by providing barge sites.

Other activities occurring in the coastal marine area that involve some disturbance of the foreshore and seabed include (but are not limited to) dredging navigational channels, the cleaning of blocked pipes (e.g. stormwater outfalls), beach tidying and grooming, the deposition of material on the seabed and foreshore burial of dead marine mammals.

Coastal structures, reclamations or disturbance activities provide private benefit to the person undertaking them but in some cases there is also wider community benefit. It is important therefore that the uses and forms of development appropriate for Marlborough's coastal marine area are identified and that adverse effects are addressed, while at the same time maintaining the social, economic and cultural wellbeing of the community.

Issue 13F – There continues to be significant pressure for the development and/or redevelopment of a variety of coastal structures, including providing for boat access to properties within the Marlborough Sounds.

As a result of difficult topography and the subsequent financial and physical difficulties in establishing roads in steep terrain, the Marlborough Sounds roading network is limited. Many property owners therefore rely upon boats to gain access to their properties. This has necessitated:

- the construction of jetties to enable the safe and efficient set down and loading of passengers and associated cargo; and
- the construction of boat sheds (and slipways/ramps) for the storage of boats and boating related equipment that cannot be easily stored elsewhere on the property.

Even in cases where road access is available, property owners still expect to be able to enhance their access to the Sounds through having jetties and boatsheds. It is important to recognise the significance of these coastal structures in providing property owners and visitors access to existing residential properties. However, this must be weighed against the potential for coastal structures to visually intrude into the landscape/seascape, as well as create impacts on other values such as ecology, natural character, recreation, navigation and amenity. Significantly, the size of jetties and boatsheds has lately increased, partly in response to the increasing size of boats.

Retaining walls and associated abutments (effectively a small reclamation) are often built in and around jetties and boatsheds. This may be to provide an anchoring point for a structure, to protect the structure from coastal processes or to enhance access to the foreshore. Retaining walls can be built from a range of materials and if not sympathetically designed, can appear visually intrusive within the natural environment and physically or perceptually hinder public access to and along the foreshore. Landscaping and development of reclaimed areas can also

give the impression that the area is part of the boatshed or jetty and that the area is not available for public use. In some cases however, coastal protection works are sought as a means of protecting land from erosion caused by coastal processes or boat wash. Other structures, such as pipelines, cables, decking around boatsheds, slipways or boat launching ramps are also evident in many locations around the Marlborough Sounds.

While there are currently few structures located along the south Marlborough coastline, the following provisions are also relevant to this area of the coastal environment.

[RPS, C]

Objective 13.10 – Structures in the coastal environment including jetties, boatsheds, decking, slipways, launching ramps, retaining walls, coastal protection structures, pipelines, cables and/or other buildings or structures are appropriately located and within appropriate forms and limits to protect the values of the coastal environment.

In addressing Issue 13F, this objective does not seek to preclude structures in the coastal environment; rather, the objective seeks simply to direct where these structures can be appropriately located, within appropriate forms and limits. This helps to give effect to Objective 6 of the NZCPS. The subsequent policies of this objective and those of Objectives 13.1 and 13.2 help to inform appropriate locations, forms and limits for coastal structures. (Regard to other chapters such as landscape, natural character, public access and indigenous biodiversity will help inform values for the coastal environment. Chapter 4 - Use of Natural and Physical Resources may be relevant in terms of regionally significant infrastructure.) The following policies include guidance for the consideration of all coastal structures and additional policies for jetties, boatsheds, slipways and coastal protection structures. Objective 13.10 and its subsequent policies do not apply to the Port Zone, Port Landing Area Zone, Marina Zone or to moorings.

All coastal structures

[C]

Policy 13.10.1 – Enable structures to be located within the coastal marine area where these are necessary for the purposes of assisting with navigation of ships/vessels or are temporary in nature for scientific monitoring or research purposes.

For safety reasons it is important that navigational aids can be strategically located in Marlborough's coastal marine area. Monitoring equipment for scientific purposes or research is often temporary in nature and does not usually involve significant alteration or occupation of the coastal marine area. An enabling approach to these types of structures is provided for through the rules, subject to standards.

[C]

Policy 13.10.2 – Other than as provided for in Policy 13.10.1, proposals to locate structures within the coastal marine area will be required to be assessed through the resource consent process.

In most cases any structure that occupies the coastal marine area in terms of Section 12 of the RMA will require to be assessed through a discretionary activity resource consent. This is to ensure in deciding whether the proposed structure is appropriate, regard is had to the values of the coastal environment and the impact on other uses or activities.

[RPS, C]

Policy 13.10.3 – Efficient use of the coastal marine area ~~can~~ is to be achieved by:

a. ~~using the~~limiting structures to the **minimum area necessary** ~~for structures~~.

b. Limiting structures that have a technical or operation need to be located in the coastal marine area and for which no alternative location is available.

c. Encouraging structures to be multipurpose where practicable.

Comment [N10]:
As worded this policy does not identify a course of action. The policy's intention is to provide guidance on how to achieve efficient use of the coastal marine area. Efficient use of space through using the minimum area required for a particular activity is one relevant tool. There are others that should be included.

Policy 6 of the NZCPS requires the efficient use of occupied space within the coastal marine area and prescribes some circumstances through which this can occur. In addition, the Marine and

Coastal Area (Takutai Moana) Act 2011 sets out rights for use of the common marine and coastal area. In having regard to these rights, the Council considers efficient use of the coastal marine area should be in part predicated on also using the least amount of space necessary for structures.

[C]

Policy 13.10.4 – The erection and use of decking structures:

(a) by themselves or in conjunction with jetties are regarded as inappropriate and shall be avoided; and

(b) where proposed in association with a boatshed, shall only be for access between the foreshore and the boatshed. Decking will be limited to two metres wide along only one side of the boatshed and up to two metres wide across the front of the boatshed. Any other decking will be regarded as inappropriate.

Policy 13.10.4 is specific to the placement of decking structures, which are often constructed as part of boatsheds and jetties to provide enhanced facilities for landowners. Extensive areas of decking around, or in conjunction with jetties and boatsheds, creates a significant privatisation of the coastal marine area. This is inappropriate, given the direction in the NZCPS that the coastal marine area is public space for community use and enjoyment (Objective 4). Some decking may be regarded as appropriate in association with a boatshed where it provides access across the front and down only one side of the structure.

[C]

Policy 13.10.5 – When assessing applications to locate structures within and immediately adjacent to the coastal marine area, the following matters will be considered in determining whether the structure is appropriate:

(a) the proposed reason for the structure and the benefits likely to arise from its use;

(b) whether the structure would be the first located in the stretch of coastline either side of the proposed site;

(c) whether the structure is to be sited in a prominent or conspicuous location;

(d) where land-based alternatives to the proposed structure are available, why the coastal marine area location is preferred;

(e) whether the structure is for public, multiple or individual use;

(f) the functional need requiring the structure to be located within the coastal marine area;

(g) what effects the structure will have on:

(i) navigation and safety of other users of the area, including whether the area is used for temporary boat anchoring;

(ii) customary access;

~~(ii)~~(iii) natural character and landscape values; and

~~(iii)~~(iv) the terrestrial, freshwater and marine environment;

(h) whether coastal processes will be adversely affected by the structure; and

(i) the operation of any existing activity or any activity that has been granted resource consent.

This policy applies to any resource consent application for coastal structures in the coastal environment. It gives effect to a number of policies within the NZCPS and matters of national importance in Section 6 of the RMA. In determining whether or not a structure is appropriate at any particular location, consideration must be had to policy elsewhere in this and other chapters of the MEP. Not all of the matters listed will be relevant in every case.

Comment [N11]:
It is not clear why Policy 13.10.5(g) does not identify other high value and sensitive areas. In particular, why it does not identify effects on the marine environment given the policy relates specifically to the CMA. Although the PMEP must be read as a whole it is confusing to specifically require consideration of one high value area and not others.

[C]

Policy 13.10.6 – Structures should be in an appropriate location and of an appropriate scale, design, cladding and colour to avoid or mitigate adverse effects on the landscape and amenity values of the coastal environment.

When designing or building structures, it is important for resources users to consider how adverse effects on landscape and amenity values can be avoided or mitigated. This is important, given the imperatives in Sections 6 and 7 of the RMA for landscape, quality of the environment and amenity values. The policy also assists in addressing Issue 4C, concerning a detraction from the character and intrinsic values of the Marlborough Sounds.

[C]

Policy 13.10.7 – Structures shall be designed and located allowing for relevant dynamic coastal processes, including sea level rise.

This policy helps to give effect to the provisions of the NZCPS regarding coastal hazards. It is important that structures are designed by appropriately qualified experts to ensure these matters are taken into account.

[C]

Policy 13.10.8 – Where consent is granted for a structure, the coastal permit will generally tie the structure to the property for which the use was intended. On sale of the property, or in the case of structure(s) granted resource consent for commercial purposes where the structure is related to the business being sold, the transfer of coastal permits for structures to the new owners of the property/business will be required.

In the initial granting of a coastal permit application, the detail included with the application would have stated whether an applicant owned land adjacent to the site. Policy 13.10.5 also considered the need for the structure. It is important that the consent is tied to a property for which the use was intended. It therefore follows that when the property is sold, or in the case of a permit for which consent was granted to a business, when the business is sold, the coastal permit should be transferred to the new property/business owner. Where the structure has no association with a specific property, e.g. a public launching ramp, there is no need for the consent to be tied to a property.

[C]

Policy 13.10.9 – Coastal structures shall be maintained in a way that protects public safety, including for safe navigation.

As coastal structures are located within the public domain and in areas where there can be commercial, recreational or residential navigation, it is important that these structures are maintained in good condition to remain intact, ensuring public safety is protected. This will require compliance with relevant consent conditions.

[C]

Policy 13.10.10 – Coastal structures shall be required to be removed from the coastal marine area in the following circumstances:

(a) where there is no longer a need for the structure;

(b) when a coastal permit for a structure expires and no new permit has been sought; or

(c) where consent to authorise an existing structure is refused.

There may be circumstances where coastal structures are no longer required or are not granted new resource consents in terms of (b) or (c). Where this is the case it is appropriate for the structure to be removed from the coastal marine area. This will help to achieve Policy 6(2)(e) of the NZCPS by promoting the efficient use of the coastal marine area. This policy will be achieved through conditions imposed on resource consents granted.

Additional policies for jetties

[C]

Policy 13.10.11 – Where an application is made to construct a new jetty or to alter or extend an existing jetty, the following matters will be considered:

(a) the necessity for the jetty (or alteration or extension), including whether it will be used for individual or community use or a commercial activity on land;

(b) the nature of the existing environment, including:

(i) the seabed profile at the proposed jetty site (to help determine the appropriate length of the jetty);

(ii) the topography between the proposed site and adjacent properties;

(iii) whether there are formed tracks from the proposed site to adjacent properties or whether there will be a need to construct access tracking;

(iv) whether there is an existing jetty in the vicinity of the proposed site that could provide access; and

(c) the extent to which the application site needs to be dredged to provide adequate depth for berthing boats and if dredging may be required in the future.

In addition to the general matters applying to all coastal structures in Policies 13.10.1 – 13.10.10, these additional matters for assessing jetties will help to determine the extent of impact on the values of the coastal environment. Through considering the existing environment and the purpose of the jetty, decision makers will be better able to determine if the structure is appropriate and whether there may be alternatives available.

[C]

Policy 13.10.12 – Avoid the cumulative effects of jetties on the values of the coastal environment by:

(a) giving priority to the sharing of jetties or the development of community jetties; and

(b) considering whether there is practical road access to an application site, practical access to another jetty and/or access to existing public launching facilities in the vicinity.

This policy addresses the cumulative effects of jetties along the coastal marine area. Opportunities exist for landowners to share jetties, either in terms of a new jetty being proposed or an existing jetty that may be nearby. The practicality of using an existing jetty should be considered through the application process. In determining whether practical road access is available, it is acknowledged that there is no road access to many parts of the Marlborough Sounds. Additionally, even when road access is available it may be impractical to use if there are significant distances to travel.

[C]

Policy 13.10.13 – The primary use of jetties by boats shall be for embarkation and disembarkation purposes, not for providing berthage for vessels for extended periods of time.

The coastal marine area is available for all to use and the Marine and Coastal Area (Takutai Moana) Act 2011 provides guaranteed rights for this use. When considering this and other NZCPS and MEP policies in regard to the efficient use of occupied space in the coastal marine area, it is important that berthing of boats for long periods of time does not prevent others from using a jetty.

[C]

Policy 13.10.14 – A jetty shall be used to facilitate access between a vessel and the land. A jetty shall not be used for storing boats, boating equipment, marine farming equipment or other gear.

The primary purpose of a jetty is to provide access between a boat and the land. A jetty should not be used for any other purpose. Where storage for boats, boating equipment or other gear is required, this should occur on private land or, if the circumstances are appropriate and have regard to the policies, in a boatshed.

[C]

Policy 13.10.15 – Reduce the visual impact of jetties on the coastal environment by:

- **(a) limiting the width of jetties to two metres;**
- **(b) where practicable, using floating jetties, which tend to have a lower profile than fixed jetties and provide easier access to the shore;**
- **(c) limiting the size, colour and height of mooring piles associated with the jetty;**
- **(d) discouraging the use of jetties (or parts of jetties) that run parallel to the shore, as they can cause greater visual impact than jetties perpendicular to the shore;**
- **(e) avoiding the use of boatlifts alongside jetties for boat storage;**
- **(f) avoiding locating lights on jetties (other than those required to facilitate access);**
- **(g) encouraging new jetties, link spans and piles to be built from materials that are non-reflective or painted in non-reflective colours;**
- **(h) avoiding the use of highly-coloured fenders; and**
- **(i) avoiding signs on jetties other than those assisting emergency services.**

As jetties can have an impact on visual amenity and landscape values, this policy sets out matters that can help to reduce these impacts. Decision makers should therefore have regard to these matters, including consideration of the scale of a jetty in relation to the proposed location.

[C]

Policy 13.10.16 – Reduce impacts on public use and access to, within and along the coastal marine area, along the foreshore and on navigational safety, by;

- **(a) considering whether the jetty can be sited at one end of a beach rather than in the middle, having regard to land ownership;**
- **(b) requiring the provision of public access around the landward end of the jetty; and**
- **(c) requiring the jetty to be made available for public use.**

The rocky nature of the Marlborough Sounds foreshore makes public access along the coast difficult at many locations. Structures such as jetties, which are built to connect to the land, can inhibit public access and the policy directs that this be considered. Conversely, jetties do have the ability to enhance public access to the foreshore, which is consistent with Section 6(d) of the RMA. This, along with other public access policy in the MEP, states that coastal permits will be conditioned to require jetties to be available for public use.

[C]

Policy 13.10.17 – Avoid the construction of jetties that effectively create a marina type berth, i.e. a structure that runs along both sides of a boat.

With the use of a jetty having been described in Policy 13.10.13 as for embarkation and disembarkation purposes between a boat and the land and not for providing berthage for boats,

this policy seeks to avoid this occurring. A jetty of the type described here is also difficult to share with adjoining landowners and increases the area of coastal marine area being occupied.

[C]

Policy 13.10.18 – In determining a new consent application for a lawfully-established existing jetty, the matters in Policies 13.2.1, 13.10.8, 13.10.12(a), 13.10.13, 13.10.14, 13.10.15(c), (e), (f), (g), (h), (i) and 13.10.16(c) will be considered. The extent to which the existing jetty is consistent with the direction in these policies and whether the effects of any inconsistencies can be avoided, remedied or mitigated will be a significant factor in determining whether a new consent is granted.

The policies to be considered in a new coastal permit application for an existing jetty are limited and include consideration of matters that may be expected to change over time, therefore warranting reconsideration. Natural character, recreation, amenity values and public access are particularly important considerations.

Additional policies for boatsheds and slipways

[C]

Policy 13.10.19 – The purpose of a boatshed shall be to house boats and boating equipment. Where a boatshed is to be located in the coastal marine area or on land immediately adjacent to the coastal marine area and its use differs from the purpose described above, the activity is inappropriate in the coastal environment and is to be avoided.

A boatshed cannot be used for anything other than storing a boat or boating equipment. Given the public nature of the coastal marine area and reserve land adjacent to the foreshore, it is important a boatshed is used for the purpose for which consent was sought. Where this ceases to occur, the building should be removed.

[C]

Policy 13.10.20 – Where an application is made to construct a boatshed and/or slipway or to extend an existing structure, the following matters will be considered:

- **(a) the nature of the boat and boating equipment to be stored in the boatshed, e.g. the size of the boat;**
- **(b) the materials to be used in construction (including cladding, doors and roofing) and the dimensions of the boatshed, including roof height and pitch, as well as the materials to be used in the construction of the slipway; and**
- **(c) opportunities for storing boats and boating equipment on private property and whether there are any launching facilities nearby.**

In addition to the general matters applying to all coastal structures in Policies 13.10.1 – 13.10.10, these additional matters for assessing boatsheds and slipways will help to determine the extent of impact on the values of the coastal environment. Through considering the existing environment and what the boatshed is to be used for, decision makers will be better able to determine if the structure is appropriate and whether there may be alternatives available.

[C]

Policy 13.10.21 – The installation of sanitary plumbing within or as part of the boatshed must be avoided.

As the purpose of a boatshed is to house boats and boating equipment, there is no need for sanitary plumbing of any kind. There is no functional need for these facilities to be located within or as part of a boatshed. Such facilities are more appropriately located within a dwelling.

[C]

Policy 13.10.22 – The visual impact of boatsheds on the values of the coastal environment will be reduced by:

- **(a) ensuring boatsheds are limited to one storey in height, with no internal upper flooring;**
- **(b) requiring boatsheds to be built of materials that are non-reflective or are painted in non-reflective colours that blend with the surrounding shoreline or bush;**
- **(c) avoiding the use of concrete in the external appearance of the boatshed, except where its use is necessary in the footing or foundations of the structure;**
- **(d) avoiding large windows and glass doors (including glass sliding doors);**
- **(e) avoiding the use of boatlifts alongside jetties for boat storage;**
- **(f) avoiding locating lights on boatsheds (other than those required to facilitate access); and**
- **(g) avoiding signs on boatsheds other than those assisting emergency services.**

As boatsheds can have an impact on visual amenity and landscape values, this policy sets out matters that can help to reduce these impacts. Unlike jetties, which are not a solid structure, because of its size, colour and construction material a boatshed has the potential to have an adverse effect on landscape, amenity and natural character values.

[C]

Policy 13.10.23 – In determining a new consent application for a lawfully-established existing boatshed and slipway, the matters in Policies 13.2.1, 13.10.8, 13.10.19, 13.10.20(a) and (b), 13.9.21 and 13.9.22 will be considered. The extent to which the existing boatshed and slipway are consistent with the direction in these policies and whether the effects of any inconsistencies can be avoided, remedied or mitigated will be a significant factor in determining whether a new consent is granted.

The policies to be considered in a new coastal permit application for an existing boatshed are limited and the policies include consideration of matters that may be expected to change over time, therefore warranting reconsideration. Natural character, recreation, amenity values and public access are particularly important considerations. Any ability to further reduce visual impacts is also important to consider, as is confirming that the original purpose of the boatshed (to store boats and boating equipment) remains valid.

Additional policies for coastal protection structures or works

[C]

Policy 13.10.24 – The establishment of coastal protection structures or works may be considered appropriate where:

- **(a) alternative responses to the hazard (including abandonment or relocation of structures) are impractical, impose a high community cost or have greater adverse effects on the environment; and**
- **(b) the works are justified by a community need; or**
- **(c) regionally significant infrastructure is at risk.**

This policy sets out those circumstances where coastal protection works may be appropriate. In general, the circumstances prescribed demonstrate that there need to be clear, positive effects on the environment from coastal protection works and that these outweigh any negative effects. The subsequent policies for coastal protection works are only applicable when the tests in Policy 13.10.24 have been satisfied.

[C]

Policy 13.10.25 – Where practicable, the use of non-structural methods for coastal protection work (including planting and beach nourishment) shall be preferred to structural methods.

Using non-structural coastal protection methods is preferred over structural methods where this is a practicable option. This policy helps to give effect to Policies 25-27 of the NZCPS. Structural methods artificially stabilise the coastline and may be appropriate where it can be demonstrated that such a solution is the best practicable method for remedying or mitigating the hazard.

[C]

Policy 13.10.26 – Any proposal for coastal protection structures or works shall demonstrate that:

(a) the design, construction and placement of the coastal protection structure will not lead to any of the following effects (either in a temporary, permanent or cumulative manner):

- **(i) undermining of the foundations at the base of the structure;**
- **(ii) erosion behind or around the ends of the structure;**
- **(iii) settlement or loss of foundation material;**
- **(iv) movement or dislodgement of individual structural components;**
- **(v) the failure of the coastal protection structure should overtopping by water occur;**
- **(vi) offshore or longshore loss of sediment from the immediate vicinity;**
- **(vii) any increase in the coastal erosion posed to the coastline in question; and**

(b) any effects of the work, including effects on water currents, wave action, sediment transport and deposition processes, do not adversely affect waahi tapu sites, natural processes, ecological or amenity values of the coastal marine area beyond the site of the work.

It is important that coastal protection works, which are structural in nature, are designed by experts in natural coastal processes. This ensures that the proposed works will not exacerbate the hazard but will achieve what they are designed for and not transfer adverse effects elsewhere.

[C]

Policy 13.10.27 – Discourage the use of concrete slab retaining walls, sheet piling, car tyres or similar for coastal protection measures and encourage instead the use of materials similar to those found naturally occurring in the area or that can be locally sourced.

Many people find the appearance of hard protection works unattractive and inconsistent with the natural character of the coast (and in turn, inconsistent with the provisions of the NZCPS). Retaining walls or similar can also cover or reclaim part of the beach and affect access to the beach. These types of protection structures can have direct and indirect adverse effects on natural character, landscape values, amenity values and public access. It is therefore preferable that materials similar to those naturally occurring in the area to be protected are used. Where this is not practicable, materials that can be sourced locally can also be used.

Issue 13G – Disturbance of the foreshore and seabed through reclamation, dredging, drainage, deposition or other activities can have adverse and irreversible effects on values of the coastal environment.

Section 12 of the RMA places restrictions on use of the foreshore and seabed within the coastal marine area. Essentially, no person may reclaim, drain, disturb (excavate, drill or tunnel), deposit substances or remove any natural material (sand, shingle, shell) in respect of the foreshore and seabed, unless it is provided for by either a rule in a plan or by a resource consent.

Various activities involving disturbances to the foreshore and seabed are undertaken within Marlborough's coastal environment. A number of these provide considerable benefits to the community. An example is the clearance, cutting and realignment of river mouths to lessen potential effects of flooding events. The ability for people or authorities to undertake this activity provides considerable benefits and it is likely that the need for this activity will continue in the future. Similarly, reclamations constructed as part of port and marina development bring both economic and social wellbeing to the community.

However, depending on the scale and location of the disturbance activity, considerable adverse effects can arise for a range of values. For example, the most significant adverse effect of a reclamation is the burial of the seabed. This threatens habitats associated with the seabed, the life-supporting capacity of a much larger surrounding area and potentially affects iwi values. Other potential effects associated with reclamation include interruption to the water movement patterns, shoaling effects, exclusion of water-based uses, visual impacts and construction effects.

Dredging activities, which are most often required around ports and marinas and particularly within and approaching the Havelock port area, can also have significant adverse environmental effects. The main effect of dredging is the physical destruction and/or removal of any benthic aquatic life within the dredged area. Dredging can also affect water movement patterns and alter the physical nature of sediments, thus potentially affecting habitats.

Other disturbance activities may appear more benign in their level of effect, such as beach enhancement or the use of motor vehicles along the foreshore. However, these activities may have adverse effects that are not apparent and therefore should also be subject to a management framework through the MEP.

The objectives and policies that follow establish an approach that enables the continuation of some disturbance activities, especially where these are essential for the ongoing and safe operation of existing infrastructure, while ensuring the effects of disturbance activities are appropriately addressed or otherwise avoided.

Reclamation and drainage

[RPS, C]

Comment [N12]:
This section does not include provisions addressing:
-De-reclamation.
-The precautionary approach.
Provisions providing for these 2 points are required to give effect to Policies 3 and 10 NZCPS.

Objective 13.11 – Minimise the loss of Marlborough's coastal marine area through reclamation or drainage.

Reclamations and/or drainage permanently alter the foreshore and seabed and alter the area available to the public in terms of the rights for use of the common marine and coastal area (as set out in the Common Marine and Coastal Area (Takutai Moana) Act 2011). It is therefore important that the loss of coastal marine area through reclamation is minimised.

[C]

Policy 13.11.1 – Proposals to reclaim or drain the coastal marine area will require assessment through the resource consent process.

Any proposal to reclaim or drain the coastal marine area in terms of Section 12 of the RMA will require assessment through a resource consent application. This is to ensure that regard is had to the values of the coastal environment and the impact on other uses or activities before a decision is made on whether the proposed work is appropriate.

[RPS, C]

Policy 13.11.2 – Reclamation or drainage in the coastal marine area shall be avoided, unless:

(a) the activity to be carried out on the reclamation has to be adjacent to the coastal marine area; and

(b) it can be shown there are no alternative land-based sites available (above Mean High Water Springs); or

(c) the works are for the operational needs of ports within Port Zones or for the operational needs of marinas within Marina Zones, where they are consistent with other relevant policies of the Marlborough Environment Plan.

The matters in this policy give effect to Policy 10(1) of the NZCPS. Given the public nature of the coastal marine area, in any application for resource consent it will be important that the purpose for which the reclamation or drainage is proposed is clearly established. This policy will help to avoid reclamation that would privatise the foreshore and seabed. Port and marina facilities have been identified as regionally significant infrastructure, so (c) has been included in having regard to NZCPS Policy 10(1)(d).

[C]

Policy 13.11.3 – The need to dispose of dredged or other material should not dictate the need for or size of a reclamation.

The need to dispose of dredged or other material will not be sufficient grounds for reclamation. Similarly, the size of any reclamation proposed should be related to the intended activity to be carried out, not as justification for disposing of dredged material or other waste.

[C]

Policy 13.11.4 – Where an application is made for resource consent to reclaim or drain the coastal marine area, effects (including cumulative effects) on the following matters will be considered:

(a) the proposed reason for the reclamation/drainage and the benefits likely to arise from its use;

(b) the explanation for why no ~~if~~ land-based alternatives are available to the proposed reclamation/drainage, ~~why the coastal marine area location is preferred~~;

(c) the functional need for the activity to be carried out on the reclamation;

(d) the effects on:

(i) navigation and safety of other users of the area, including whether the area is used for temporary boat anchoring;

(ii) cultural values;

(iii) the marine, coastal and freshwater environment,

(iv) Natural character and landscape values.

~~(iii)~~(v) the terrestrial environment, including an assessment of any earthworks necessary;

(e) whether coastal processes will be adversely affected by the structure; and

Comment [N13]: As worded Policy 13.11.4 conflicts with Policy 13.11.2(b) which states that reclamation or drainage is to be avoided unless there is no alternative.

Comment [N14]: The same issues apply as discussed in respect of Policy 13.10.5.

(f) the operation of any existing activity or any activity that has been granted resource consent.

This policy provides direction to decision makers as to the matters to be considered on resource consent applications for reclamation or drainage in the coastal marine area. It gives effect to a number of the policies within the NZCPS as well as the matters of national importance in Section 6 of the RMA. In determining whether a reclamation or drainage is appropriate at any particular location, regard must be had to other policy in this chapter and others in the MEP.

[C]

Policy 13.11.5 – Reclamations shall be designed taking into account relevant dynamic coastal processes, including sea level rise.

This policy helps to give effect to the provisions of the NZCPS regarding coastal hazards. It is important that reclamations are designed by appropriately qualified experts to ensure these matters are taken into account.

[C]

Policy 13.11.6 – Material used to create and form any reclamation or impoundment should not include contaminants, which could significantly and adversely affect water quality, aquatic ecosystems and indigenous biodiversity in the coastal marine area.

This policy effectively directs that materials to be used in a reclamation or impoundment should be inert, to avoid contaminants being leached into the coastal marine area. This helps to protect water quality, aquatic ecosystems and biodiversity values identified in the policy. This policy also gives effect to Policy 10(2)(c) of the NZCPS.

[C]

Policy 13.11.7 – ~~Where practicable for~~For the purpose of public access, an esplanade reserve or strip shall be required to be set aside on reclaimed areas of the coastal marine area unless restriction is necessary to:

(a) protect public health and safety;

(b) provide for defence, port or airport purposes;

(c) protect areas with natural and physical resources that have been scheduled in the Unitary Plan in relation to natural heritage, Mana Whenua, natural resources, coastal, historic heritage and special character;

(d) protect threatened indigenous species;

(e) protect dunes, estuaries and other sensitive natural areas or habitats;

(f) have a level of security necessary to carry out an activity or function that has been established or provided for;

(g) provide for exclusive use of an area to carry out an activity granted an occupation consent under section12 of the Resource Management Act 1991;

(h) enable a temporary activity or special event;

Comment [N15]:
The phrase "where practicable" is not clear and can result in unfair and inconsistent decision-making. The policy should be reworded to identify the specific situations where public access areas do not need to be set aside.

Enhancement of public access along the coastal marine area is a matter of national importance in the RMA. Policy 10 of the NZCPS also requires that, where practicable, regard is had to providing for public access along a reclaimed area. There may be some circumstances where it will not be practicable to provide for public access along reclaimed areas and regard should be had to Objective 9.2 of Chapter 9 - Public Access and Open Space, which sets out these circumstances.

[C]

Policy 13.11.8 – The finished appearance of the reclaimed or drained area and its future use shall as far as practicable be compatible with the environment in which it is to be located.

For landscape reasons, including visual amenity, it is important that consideration is given to the

finished appearance of a reclaimed area and its future use. For areas located away from established ports or marinas, a reclamation could be a significant visual intrusion within the coastal environment and mitigation of this impact is important. Indeed, if not compatible with the existing form of development, the appearance of a reclaimed area and subsequent development could still have an adverse visual impact even within modified areas of the coastal environment, such as Picton or Havelock. The policy also helps to give effect to Policy 10 of the NZCPS.

Disposal and deposition

[RPS, C]

Objective 13.12a – Minimise the disposal or deposition of organic or inorganic material into the coastal marine area.

It is preferable that disposal or deposition of organic or inorganic material is minimised. This will help to avoid adverse effects on a range of values within the coastal marine area, including ecology, natural character, iwi, navigation and amenity values.

[RPS, C]

Objective 13.12b – Material dredged from the coastal marine area is appropriately disposed of.

Where dredged material is to be disposed of in the coastal marine area, it is important that the location and circumstances in which the deposition is to occur are appropriate. The MEP does not identify specific dumping sites for dredged material and therefore any proposals for disposal need to be considered through the resource consent process to determine whether the activity is appropriate.

[C]

Policy 13.12.1 – Proposals to dispose of dredged or other material in the coastal marine area must demonstrate that:

(a) no reasonable and practicable alternatives are available on land;

(b) the disposal will be undertaken in a location and at times of the day or year that will avoid (in the first instance), then remedy or mitigate adverse effects on:

(i) the growth and reproduction of marine and coastal vegetation and the feeding, spawning and migratory patterns of marine and coastal fauna;

(ii) navigational safety;

(iii) other established activities located in the coastal marine area that are likely to be affected by the disposal;

(iv) water quality, including an increase in water turbidity or elevated levels of contaminants;

(v) shoreline instability or coastal erosion on adjacent coastal land; and

(c) in the case of dredged material, the site is located so as to avoid, as far as practicable, the spread or loss of sediment and other contaminants to the surrounding seabed and coastal waters through the action of coastal processes such as waves, tides and other currents.

(d) Appropriate sediment retention methods are used to control spread or loss that cannot be addressed through location.

(e) The material disposed exhibits the same characteristics to the material at the disposal location.

~~(c)~~(f) The material is free from waste.

Given that significant effects can arise through disposal of material within the coastal marine area, it is appropriate to consider why the alternative of land disposal is not reasonable or practicable. The policy also identifies particular values to be protected, environmental effects to be addressed and characteristics of the disposal site to be considered when assessing resource consent applications.

[C]

Policy 13.12.2 – The disposal of contaminants or material containing contaminants should be avoided.

Potentially adverse effects may arise from the marine disposal of contaminants or material

Comment [N16]: The effects of deposition can be significant and in many cases permanent. This section fails to include a policy identifying areas where deposition should not be allowed (for example significant marine biodiversity areas. A new policy needs to be included.

Comment [N17]: This policy fails to identify a number of key factors relating to sediment control that should be considered in disposal proposals. This is necessary to ensure that the effects of the proposal are contained.

containing contaminants. These effects may be significant, depending on the material being disposed of, the level of contamination and the location and method of disposal. The policy therefore directs that disposal of contaminants or material containing contaminants is to be avoided.

Disturbance of the foreshore or seabed not elsewhere provided for

[C]

Objective 13.13 – The effects of disturbance to the foreshore or seabed not provided for elsewhere are appropriately managed.

Previous objectives and policies under Issue 13E have provided direction on specific disturbance activities. There are other circumstances where disturbance activities may occur and a framework within which these activities are managed is necessary.

[C]

Policy 13.13.1 – Activities that result in little disturbance of the foreshore or seabed will be provided for as a permitted activity.

Some activities, particularly recreational activities, have minimal or no impact on the foreshore or seabed in terms of associated disturbance. These activities are considered to be appropriate and are provided for as a permitted activity, subject in some cases to standards.

[C]

Policy 13.13.2 – Enable disturbance of the foreshore and seabed in the following circumstances:

(a) at London Quay Beach, Shelly Beach and Waikawa Beach for the excavation or removal of foreshore or seabed material for the purpose of removing marine debris or litter or for the renourishment or grooming of beaches;

(b) for the excavation or removal of foreshore or seabed material for marine mammal rescue or burial; or

(c) for oil spill response operations.

The policy provides for three specific instances where disturbance of the foreshore and seabed are appropriate. In the case of the beach areas in Picton and Waikawa, the disturbance activities enabled have positive social benefits in terms of enhancing recreational use within the identified areas. For (b), the policy enables disturbance to deal with infrequent occurrences of marine mammal deaths or strandings. Both instances are considered to have minor adverse effect and are enabled through permitted activity rules, subject to standards.

[C]

Policy 13.13.3 – Discourage the use of motorised vehicles on the foreshore where this will impact on ecological values or safety of other foreshore users, where the foreshore acts as protection from the sea or on cultural, heritage and amenity values.

There are some locations around Marlborough's coastline where the foreshore environment is such that motorised vehicles can be used. However, the use of motorised vehicles can have adverse impacts on other beach users, from both a safety and amenity perspective, as well as on ecological, cultural and heritage values. Where there is the potential for these values to be affected this policy discourages the use of motorised vehicles. The policy gives effect to Policy 20 of the NZCPS.

[C]

Policy 13.13.4 – Where disturbance of the foreshore and seabed will occur as a result of structures being fixed to the seabed (for example, during the construction of jetties, boatsheds or retaining walls, or when placing moorings on the seabed), this shall be regarded as appropriate where the effects are short-term, reversible and/or minor.

There are some circumstances where minor disturbance of the foreshore and/or seabed will occur as a result of structures being erected. In many cases the effects will be short term, reversible and/or minor, so in these circumstances the disturbance is regarded as appropriate.

[C]

Policy 13.13.5 – Enable opening of the Wairau River and Wairau Diversion mouths where this will assist to reduce the effects of flooding, improve land drainage and enable navigation across the river mouths.

The Wairau River mouth bar is a natural feature that has a dominating effect on water levels in the Wairau estuary and lagoons, the lower Wairau (to upstream of Ferry bridge) and the lower Ōpaoa. If the bar is partially closed, the water therein may stay almost completely devoid of saline water, or conversely, stay with an extensive saline wedge. Either situation could adversely affect ecological values in the area. Opening of the Wairau River mouth will therefore improve water movement, mitigate flood risk and ensure that navigation across the river mouth can occur. It is appropriate to provide for the opening of the Wairau River and Wairau Diversion mouths to address these issues, subject to meeting standards.

[C]

Policy 13.13.6 – Enable the clearing, cutting or realignment of stream and river mouths, drainage channels and stormwater outfalls and pipes within the coastal marine area to protect public health and property during flood events.

The blockage of stream and river mouths, drainage channels and stormwater outfalls and pipes through deposition of sediment or debris can result in flooding of adjacent land or impoundment of water, which could pose potential health risks. It is necessary that appropriate provision is made for work to be undertaken to address these situations.

[C]

Policy 13.13.7 – Proposals for an activity involving disturbance of the foreshore or seabed not otherwise provided for shall demonstrate that:

- **(a) there will only be short-term adverse effects on plants, animals or their habitat and the area will be naturally recolonised by a similar community type;**
- **(b) the disturbance will be undertaken in a way that:**
  - **(i) does not result in any significant increase in water turbidity or elevated levels of contaminants;**
  - **(ii) does not result in significant adverse changes to bathymetry, foreshore contours, sediment particle size or physical coastal processes;**
  - **(iii) does not have any off-site adverse effects; and**
  - **(iv) is unlikely to cause or exacerbate shoreline instability or coastal erosion on adjacent coastal land.**

There will be instances where an activity involving some form of disturbance to the foreshore or seabed has not been otherwise described or provided for in the previous policies. Where this is the case, this policy will assist in determining the outcome of any resource consent application, having regard to the values of the coastal environment. For a number of those values, it will be appropriate to have regard to other policies of this chapter and others of the MEP. Additionally, where a disturbance activity has been provided for in policies under Objective 13.13 but does not meet permitted activity standards, the matters in this policy must be considered by decision makers.

[C]

Policy 13.13.8 – Where the removal of sand, shingle, shell or other natural material from any foreshore or seabed is proposed, the matters in Policy 13.13.7 shall apply.

Historically, the extraction of sand, shingle, shell or other natural material has not occurred to any significant degree within Marlborough's coastal marine area. However, proposals may be made to undertake such activities and it is therefore appropriate to provide policy guidance here, as the effects of such activities would be similar to those for other disturbance activities.

[C]

Policy 13.13.9 – In addition to the matters in Policy 13.13.7, any proposal for dredging within the coastal marine area that is not for ship berthage or navigational channels in the Port Zone and/or Marina Zone or for river mouth/stormwater pipe clearance shall demonstrate:

(a) the necessity of the dredging; and

(b) an appropriate disposal method, having regard to the matters in Policy 13.12.1 concerning disposal, if disposal is to occur in the coastal marine area.

From time to time the Council has received resource consent applications for dredging or other disturbance related activities in the coastal marine area that are not related to the operation of existing ports and marinas. Although these applications are not significant in number, it is appropriate to provide a management framework by which applications can be assessed.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[C]

13.M.17 Regional rules

Regional rules provide for structures and disturbance activities as permitted activities (subject to meeting standards), where these will have no more than minor adverse effects on the environment. This includes for navigation, recreational activities, temporary scientific monitoring equipment and beach enhancement.

Discretionary activity consents will be required for most occupations, reclamations and many disturbance activities. Detailed assessment criteria are included within the policies to assist decision makers in determining whether consent should be granted.

[C]

13.M.18 Bylaws

A bylaw promulgated under the Local Government Act may be used to control the use of vehicles on the foreshore.

Shipping activity

With Marlborough having 18 percent of New Zealand's coastline, it is not surprising that water transportation is an important part of Marlborough's overall transport network. The Council is the harbour authority for Marlborough and exercises the functions, duties and powers required under the Local Government Act 2002 and delegations under the Maritime Transport Act 1994. Some overlap may occur in terms of the functions of the Council as a harbour authority and in its responsibilities to follow the RMA.

The first boating users of the Marlborough Sounds were Māori, who used important waka navigation routes within the Sounds. Since those early times, the waters of the Sounds have become strategically important to New Zealand's overall national transportation network. The link between the North and South Islands is especially important, with large numbers of passengers and significant volumes of freight transported daily between Picton and Wellington. Other significant users of the Sounds' waterways include internationally trading ships, cruise ships, vessels transporting primary produce from around the Sounds, smaller commercial vessels and vessels for commercial or customary fishing and charter purposes. Hundreds of private vessels, yachts, kayaks and other recreational craft also use the Sounds regularly.

In contrast, Marlborough's open coast is used by coastal and export ships transiting from one port to another around New Zealand and to other countries. Commercial fishing and recreational craft activity also occurs along this coastline, though compared to the Marlborough Sounds, recreational use of this area is much more limited.

Issue 13H – Water transportation is a significant aspect of Marlborough's overall transportation network but has the potential to be affected by various uses and activities.

Given the extensive use of Marlborough's coastal marine area for water transportation, potential exists for a range of activities, including the placement of structures, to have an impact on the safe and efficient navigation of ships. Navigation issues arise from the combination of craft types operating, especially given the concentration of boats of different size, speed capability, visibility and manoeuvrability. These problems can be worsened by the inconsistent skill levels of boat operators and from the placement of structures.

It is important to ensure that activities in the coastal marine area, allowed either directly by the MEP or by resource consent, do not adversely affect navigational safety. The inappropriate siting of structures such as jetties or swing moorings may have an effect on the ability of ships travelling in that area to navigate safely. Controls need to be exercised over the exact location of structures and their maintenance, as well as various activities in relation to important water transportation routes. Lighting on land or on structures within the coastal marine area can also have an impact on the safe navigation of vessels and needs to be carefully controlled.

Water transportation in and through Marlborough must be provided for in a manner compatible with other activities taking place in the coastal environment. This may involve the prioritising of some forms of water transportation in certain areas and limiting them from other areas.

[RPS, C]

Objective 13.14 – The use of the coastal marine area as part of Marlborough's overall transportation network continues to contribute to the social, economic and cultural wellbeing of Marlborough and New Zealand.

The use of the coastal marine area in Marlborough has developed over time for a wide range of transport related activities. The varying types of surface water activities, from small recreational boats operating at a non-commercial level through to large export vessels, have all contributed significantly to the social and economic wellbeing of Marlborough. This objective seeks to ensure that this continues.

[C]

Policy 13.14.1 – Enable water transportation activities where these do not have an adverse effect on the coastal environment.

Due to the nature of Marlborough's coastal marine area (the extensive sheltered waterways of the Marlborough Sounds) and its central location within New Zealand, a number of water transportation activities have been in operation here for some time. It is important that provision is made to enable the activities identified in Objective 13.14 to continue where there is little adverse impact on the coastal environment.

[C]

Policy 13.14.2 – The strategic importance of areas of the Marlborough Sounds as a transportation route for inter-island shipping will be recognised as a 'National Transportation Route'.

The use of areas within the Marlborough Sounds for shipping provides a particularly important transport link between the North and South Islands. Tory Channel and inner Queen Charlotte

Sound comprise a transportation route of national significance for shipping activity. It is therefore important to recognise the strategic importance of this route and the need for it to be sustainably managed. This route has been identified by the Council in the MEP as a 'National Transportation Route' and rules apply to ships operating along this route.

[RPS, C]

Policy 13.14.3 – Ensure the following existing ports, marinas and community/commercial jetties/landing areas continue to provide links between land transport modes and water transport to the Marlborough Sounds and beyond:

(a) ports of Picton and Havelock;

(b) port landing areas at Oyster Bay (Port Underwood) and Elaine Bay (Tennyson Inlet);

(c) Picton, Havelock and Waikawa marinas; and

(d) jetties and landing areas in Torea Bay and Onahau Bay (Queen Charlotte Sound), Elmslie Bay (French Pass), Kapowai Bay (d'Urville Island) and Portage, Te Mahia and Waitaria Bay (Kenepuru Sound).

The linkages between the different modes of transport provided by the existing ports, marinas and community/commercial jetties and port landing areas contribute significantly to the social, economic and cultural wellbeing of Marlborough. In Picton, Waikawa and Havelock, infrastructure is well-established and provides important links between road and rail forms of transport and the various forms of water transportation. In Chapter 4 - Use of Natural and Physical Resources, this infrastructure has been identified as regionally significant. The jetties and port landing areas identified in b) and d) are recognised by the Council as necessary and strategic links in Marlborough's transport network and are also very important to local communities.

[RPS, C]

Objective 13.15 – The efficient and safe use of the coastal marine area for water transportation.

Activities within the coastal marine area, including surface water activities and the placement of structures, have the potential to affect the efficiency and safe use of the coastal marine area for water transportation. Safety is mainly covered by other legislation (the Local Government Act 2002, the Building Act 1991 and the Maritime Transport Act 1994). However, the RMA is also concerned with safety and navigation issues, through part of its purpose in Section 5 in "*enabling people to provide for... their health and safety.*" Therefore an objective seeking efficiency and safety outcomes for water transportation is appropriate, particularly as the use of water transport has been identified as contributing significantly to social, economic and cultural wellbeing in Marlborough.

[RPS, C]

Policy 13.15.1 – Activities and/or structures along the National Transportation Route shall be sited and/or undertaken in such a way that adverse effects on the safety and efficiency of ships transiting this route are avoided.

The significance of the National Transportation Route for the economic and social wellbeing of Marlborough and for New Zealand has been recognised in Policy 13.14.2. It is important therefore that the safety and efficiency of ships using this part of the coastal marine area is not adversely affected. This will be a major consideration in the assessment of activities and structures proposed to be located or carried out at any point along the route.

[C]

Policy 13.15.2 – Avoid, remedy or mitigate adverse effects on water transportation by:

(a) maintaining safe, clear navigation routes around headlands, unimpeded by structures;

(b) avoiding activities and/or locating structures within significant commercial shipping routes (including shipping routes from the Port of Picton, Havelock Harbour and from Waikawa Marina);

(c) avoiding emissions of light that could affect the safe navigation of ships;

(d) ensuring the safety of navigation and use of or access to mooring sites, boat sheds and ramps, jetties, wharves, ports, marinas, water ski access lanes and areas that provide shelter from adverse weather are not affected by activities or structures in the coastal marine area; and

(e) requiring structures to be maintained or marked in a way that protects the safety of water transportation activities.

These criteria provide a framework to assist decision makers in assessing the effects on water transportation arising through resource consent applications for activities or structures in the coastal marine area.

[C]

Policy 13.15.3 – Ensure that all lighting associated with any land based activity will be shielded or directed away from navigation channels to avoid the spill of light or glare that is a hazard to navigation within the coastal marine area (unless the purpose of the light is to mark a navigation channel).

To avoid hazards for water transportation activities, the impact of lighting associated with land based activities beyond its target area needs to be considered. The timing and frequency of the adverse effects of lighting will vary depending on the number of hours of poor light or darkness and the time of year. Light spill can be avoided by several means including shielding, directing and using lighting of appropriate wattage and focal characteristics.

Issue 13I – Ships capable of travelling at speed or generating significant waves in Queen Charlotte Sound and Tory Channel have the potential to conflict with a range of other coastal users and values and to generate adverse environmental effects.

The Council recognises that shipping activity contributes to the social, economic and cultural wellbeing of people and communities by providing an important link between the North and South Islands and a means of transport for goods in the Marlborough Sounds. However, ships capable of generating significant waves in enclosed waters can potentially conflict with a range of other coastal users and values and generate adverse environmental effects.

The amount of energy contained in waves generated by ships adds substantially to the natural energy levels in the environment. These increased energy levels are responsible for generating adverse effects on the environment, including changes to shoreline morphology, sub-tidal and inter-tidal zone habitats, impacts on public safety, public access and enjoyment of the coastal environment and the amenity values of the area. The speed at which some ships travel also has implications for the safety of those using the coastal marine area. This became apparent to the Marlborough community (and nationally) in 1994, when fast ferries were first introduced onto the interisland route.

The Council monitors the effects of ship-generated waves and indications are that, since the introduction of fast ferry speed restrictions, there has been some improvement and recovery in the condition of the environment, particularly around the coastal margin of the Sounds. It is important that the potentially adverse effects of ship-generated waves from large and/or fast ships continue to be managed to avoid more significant effects in the future.

Shipping activity in areas such as Pelorus and Kenepuru Sounds is different to that of Queen Charlotte Sound and Tory Channel. The majority of shipping within these areas is coastal or local

in nature and includes transport of tourists, logs and livestock as well as fishing and marine farming fleets. These vessels are generally smaller than the interisland ferries. However, an increasing number of recreational and commercial vessels use Sounds waters and some of these vessels travel at speeds similar to fast ferries. At this stage there is little justification for the regulation of shipping activity in areas outside of Queen Charlotte Sound and Tory Channel, but the potential for adverse effects from waves generated by these ships may need to be investigated and reassessed in the future.

[C]

Objective 13.16 – The environmental effects of ship-generated waves and ship speed are managed so that potential conflict with other coastal users and values is avoided.

Ships that can travel at high speed and/or generate significant waves have been shown to have adverse impacts within the enclosed waters of Queen Charlotte Sound and Tory Channel. This objective seeks to avoid adverse impacts on cultural values, natural character, marine ecology, recreational use, navigational safety and amenity values whilst allowing the continued use of the Queen Charlotte Sound and Tory Channel for water transportation purposes.

[C]

Policy 13.16.1 – The effects of shipping activity in Queen Charlotte Sound and on the National Transportation Route will be:

- **(a) based on ship-generated wave energy; and**
- **(b) managed in terms of the wave energy levels of those ships, based on the effects associated with the conventional ships operating prior to the introduction of the MV Aratere in 1999.**

The Environment Court has determined that the amount of energy appropriate for the National Transportation Route is to be founded on the environmental effects associated with conventional ships operating prior to the introduction of the M.V. Aratere in 1999. The energy limits included in the MEP are therefore based on the need to ensure that damage or change at the shore is minimised, cultural values of Marlborough's tangata whenua iwi and the amenity values enjoyed by residents and visitors are provided for, and the natural character of the Sounds environment is protected.

[C]

Policy 13.16.2 – Recognise and provide continued access to and use of traditional coastal resources in Tory Channel and Queen Charlotte Sound for Marlborough's tangata whenua iwi and in particular, recognise the value of Tory Channel for Te Atiawa, in terms of the mauri, mana and manaakitanga that this area brings to iwi.

The tikanga Māori (customary values and practices) of Te Atiawa have been adversely affected by the operation of ships, particularly fast ferries, with a decline in kaimoana and associated mana. The need for Marlborough's tangata whenua iwi to practice kaitiakitanga and ensure that Queen Charlotte Sound and Tory Channel are available for future generations is very important.

[C]

Policy 13.16.3 – When considering applications for resource consent for ships expected to propagate waves with energy levels in excess of limits specified in the Marlborough Environment Plan, have particular regard to the potential for adverse effects on:

- **(a) places and cultural values of importance to Marlborough's tangata whenua iwi;**
- **(b) the ability of people to effectively use any lawfully established structure for that structure's intended purpose and any adverse effects on the structure itself;**
- **(c) people's use and enjoyment of the foreshore and coastal marine area for recreational activities;**

(d) the life-supporting capacity of coastal ecosystems;

(e) beaches and the shoreline;

(f) amenity values enjoyed by residents; and

(g) the natural character of the coastal environment of the Marlborough Sounds.

These criteria are to be used to assist decision makers in assessing the adverse effects arising from ships that may propagate waves exceeding the energy levels prescribed in the MEP.

[C]

Policy 13.16.4 – Undertake monitoring to assist in developing appropriate approaches to managing the effects of shipping activity in Queen Charlotte Sound and Tory Channel.

The Council will monitor the effect of ship-generated waves as part of its responsibilities for state of the environment monitoring. A monitoring framework and programme have been established by the Council in collaboration with the Department of Conservation following the introduction of fast ferries in 1994. This framework will form the basis for ongoing monitoring and will be amended if appropriate in the future. The results of the monitoring may be used to assist in the review the overall framework for managing the effects of shipping activity or where there is a need to review the conditions of resource consents.

[C]

Policy 13.16.5 – An adaptive management approach will be used to deal with ship-generated wave issues. Regulation will be an important component of the management framework for dealing with the effects of ship generated waves.

The provision of accurate and up to date information on the environmental effects of waves generated by ships is the foundation of an adaptive management regime that continually assesses the overall framework established to manage the issue. Information must continue to be collected, analysed and assessed with regard to the effectiveness and efficiency of the regulatory framework. This process is fundamental to an adaptive management regime, which recognises the uncertainty of understanding the effects of change in the coastal environment.

[C]

Policy 13.16.6 – The Council will work with the community, Marlborough's tangata whenua iwi and the shipping industry to continually assess the appropriateness of the overall framework for shipping activities in light of environmental and technological changes or the occurrence of unforeseen effects from shipping activity.

An adaptive management method responsive to new information and better understanding must be based on a collaborative approach. This is made possible through the monitoring and shared analyses of existing and future shipping activities, state of the environment monitoring and future technological advances in ship design. This policy is intended to be implemented in part through the establishment of an advisory group representative of the key stakeholders in the management of issues concerning ship-generated waves.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[C]

13.M.19 Area identification

MEP maps identify Tory Channel and part of Queen Charlotte Sound as a National Transportation Route. The route extends from Tory Channel (between East and West Head) into inner Queen Charlotte Sound (between West Head, Ruakaka Bay and a point southwest of Kaitapeha Bay) to the Port of Picton (excluding Grove Arm). Queen Charlotte Sound (excluding the National Transportation Route) has also been defined as part of an established shipping route.

[C]

13.M.20 Regional rules

Regional rules apply to the use of ships operating in the National Transportation Route and in Queen Charlotte Sound, subject to controls on speed and ship-generated wave energy. Where any structure or activity is proposed to be located along the National Transportation Route, the effects of that use/activity on the safe and efficient operation of ships using the route will be considered. The rules do not restrict the use of surface water by ships or smaller boats elsewhere in the Marlborough Sounds or in Marlborough's open coastal waters.

Prohibited activity rules will prevent the rafting of logs through the Coastal Marine Zone as a means of moving them from one location to another.

[C]

13.M.21 Other legislation

As a harbour authority, the Council also has responsibilities for navigation and public safety within the harbour limits. The Council's Harbourmaster carries out these functions under Local Government Act bylaws, delegations under the Maritime Transport Act and associated maritime rules (or any successor to these). Bylaws also impose additional constraints on speed, e.g. the five knot harbour speed limit.

[C]

13.M.22 Monitoring

The Council intends to continue and enhance as necessary current monitoring of the effects of shipping activity. The type and extent of monitoring will be reviewed as the types of ships and level of shipping activity change over time. The monitoring framework may include:

- *near shore benthic and shoreline biological monitoring;*
- *shoreline monitoring of beach profiles;*
- *ongoing monitoring of land slip activity along the National Transportation Route; and*
- *periodic assessment of the community's views of the effects of ship-generated wave activity in the Sounds.*

Ship-generated waves may also be measured and monitored from time to time.

Monitoring the effects of the impacts of waves generated by individual ships may also be a requirement imposed as conditions of resource consent.

In addition, the Council will support the initiatives of Marlborough's tangata whenua iwi to monitor cultural and ecological effects from the wake of ship-generated waves, for example the effects on access to waahi tapu and other sites of significance, the passing of tikanga Māori to future generations and the effects on the gathering of kaimoana.

The results of monitoring may be used to assist in the review of the overall framework for managing the effects of shipping activity or where there is a need to review the conditions of resource consents.

[C]

13.M.23 Advisory group for considering effects of shipping activities

An advisory group may be established by the Council to assist in determining an ongoing approach to managing the effects of shipping activities. Members will be appointed by the Council and will include representatives from community groups, the shipping industry, Marlborough's tangata whenua iwi and the Council.

Ports and marinas

Marlborough's existing ports and marinas are located within the sheltered waterways of the Marlborough Sounds and are important for the social and economic wellbeing of the District. Facilities at each port and marina span the water and land interface and contain reclaimed areas of the coastal marine area, some of which are significant.

Three substantial marinas have been established at Picton, Waikawa and Havelock. These provide important landing, storage and loading facilities for residents of the Sounds and important access points to the Sounds for many non-resident boat owners. The marinas provide for a variety of boat-related and commercial activities and support facilities. Marinas also contribute to the amenity and attraction of the Marlborough Sounds and the towns within which they are located.

The deep water port of Picton, which includes Shakespeare Bay, plays a critical national role in the transportation of people and goods between the North and South Islands. The passage of vehicles and people through the port is closely related to the economic activity of the town's commercial and accommodation activities. Picton is an export/import port that acts as a base for commercial fishing vessels, marine farming and fishing activities and provides facilities that enable people to access the Marlborough Sounds. Recently it has also become a popular port of call for cruise ships.

Being located in an estuarine environment, the port and marina at Havelock limits the draft of vessels able to access the port/marina basin. Havelock has become the primary service port for Marlborough's marine farming industry and is the primary access point for tourism, forestry and other commercial activities in the area. It is also an access point for residents and other landowners in Pelorus Sound.

Two other locations within the Marlborough Sounds - Elaine Bay in Tennyson Inlet and Oyster Bay in Port Underwood - provide facilities for the commercial loading/unloading of marine farming and fishing produce, but on a limited scale. From these locations produce is transported elsewhere (in Marlborough and beyond) for processing.

In addition, a Port Zone has been included at Clifford Bay. This Zone is undeveloped but was applied in the former Wairau/Awatere Resource Management Plan for the construction and operation of a interisland ferry terminal in the vicinity of Marfells Beach. Central government announced in November 2014 that it was not proceeding with the development of the interisland ferry terminal at this location. The current landowner has indicated a desire to develop port facilities at the location but in the absence of details any proposals for development of port facilities will be assessed against all the provisions of the MEP.

Issue 13J – It is important that Marlborough's existing ports, port landing areas and marinas continue to contribute to community economic and social wellbeing.

The existing port infrastructure at Picton and Havelock (and latterly at Oyster Bay and Elaine Bay) has been built up over many years. Today these facilities are owned and operated by Port Marlborough New Zealand Limited, a company established in the late 1980s as a consequence of local body reform to succeed the Marlborough Harbour Board. Port Marlborough also owns and operates the marinas at Picton, Havelock and Waikawa.

The ports and marinas at Havelock, Waikawa and Picton (as they exist or as they have been approved at the time the MEP becomes operative) have been identified as regionally significant infrastructure in Chapter 4 - Use of Natural and Physical Resources. This reflects the function of

the strategic integration of infrastructure with land use given to the Council in Section 30 of the RMA.

Port infrastructure has been especially identified as being regionally significant due its contribution to Marlborough's social and economic wellbeing, health and safety. In particular, Picton has national significance. It is important therefore that this strategic infrastructure is able to operate efficiently, effectively and safely on an on-going basis for community wellbeing. In some cases, this may generate a need to manage activities occurring in the vicinity, but not connected with the operation of the port.

An important aspect of implementing a resource management framework for Marlborough's ports, marinas and port landing areas is to ensure that management occurs in an integrated way across the land/water interface. In this context it is also important that these facilities have clearly defined purposes to ensure efficient use is made of them.

[RPS, C]

Objective 13.17 – Enable the efficient operation of Marlborough's ports and marinas.

Given the contribution that the operation of ports and marinas make to Marlborough's economic and social wellbeing, it is important that these facilities operate efficiently. This objective helps give effect to Policy 9 of the NZCPS, which recognises that a sustainable national transport system requires an efficient national network of safe ports to service national and international shipping with efficient connections with other transport modes. It also gives effect to Policy 6 of the NZCPS relating to activities in the coastal environment and the coastal marine area. The objective helps to achieve Section 7(b) of the RMA, where the Council is required to have regard to the efficient use and development of natural and physical resources. The objective also supports other policy within Chapter 4 of the MEP, which recognises that the ports and marinas of Picton, Havelock and Waikawa are regionally significant infrastructure.

[C]

Policy 13.17.1 – Specific areas are identified for activities related to the operation of ports, port landing areas and marinas through a Port Zone, Port Landing Area Zone and Marina Zone, respectively.

The use of zones enables activities to occur in specific and established areas of both the coastal marine area and land regarded as appropriate for the operation of ports/port landing areas/marinas. The zoned areas are based in part on facilities that have existed for some time with largely known effects. Some additional areas have been zoned in recognition of a need for expanded facilities; for example, the port in Shakespeare Bay (which is part of the Port of Picton). Additionally, an area alongside the existing marina in Waikawa Bay remains undeveloped at notification of the MEP (9 June 2016), but has been zoned to provide opportunities in the future for additional berthage capacity.

The varying nature of ports in Marlborough is reflected in the differences in zoning approach and subsequent rules. For example, marina facilities in Havelock are co-located with port facilities, while smaller port landing areas have different rules than those for Picton or Havelock. This policy also helps to achieve the NZCPS, especially Policy 4, regarding the integrated management of natural and physical resources in the coastal environment.

[RPS, D]

Policy 13.17.2 – Promote the efficient use of land available within ports and marinas.

It is important that land associated with Marlborough's ports and marinas is used to support these purposes, as physical constraints and environmental considerations in these areas may impact on further expansion. This helps give effect to Policy 10 of the NZCPS. While other activities may have similar effects to those connected with port or marina purposes, they could interfere with the efficient management of port or marina facilities and could potentially be inconsistent with the NZCPS. For ports, the policy gives effect to Policy 9 of the NZCPS.

[R, C, D]

Policy 13.17.3 – Recognise and provide for the following operational requirements of Port Zones in Picton and Havelock:

- **(a) shipping activities;**
- **(b) loading and unloading of ships, cargo handling, storage of cargo and some processing of cargo;**
- **(c) transportation activities and passenger terminals;**
- **(d) ship building, repair and maintenance;**
- **(e) marine fuel facilities;**
- **(f) building and structures (including on wharves), wharves, reclamation, mooring structures and slipways;**
- **(g) maintenance dredging of navigation channels, turning basins and berths for the purposes of safe berthage and manoeuvring of commercial vessels;**
- **(h) maintenance, repair, removal and replacement of buildings and structures;**
- **(i) quarantine and border control activities;**
- **(j) placement and maintenance of navigation aids;**
- **(k) port administration including security, servicing and maintenance activities; and**
- **(l) signage.**

This policy identifies the operational requirements for the ports in Picton and Havelock and emphasises the purpose of a port. A wide range of activities in the Port Zones will be permitted by district and regional rules, subject to meeting standards. However, for some activities within the coastal marine area, including those that require reclamation, the erection of structures and in some instances the disturbance of the seabed, consent will be required. Some land based activities will also require consent, including certain forms of cargo processing, particularly where this has the ability to create adverse environmental effects and/or where there are servicing requirements.

[R, C, D]

Policy 13.17.4 – Recognise and provide for the following operational requirements of Marina Zones in Picton, Havelock and Waikawa:

- **(a) shipping activities;**
- **(b) loading and unloading of people and goods;**
- **(c) transportation activities;**
- **(d) marine fuel facilities;**
- **(e) commercial activities related to the operation of a marina;**
- **(f) ship repair and maintenance;**
- **(g) building and structures (including on jetties), jetties, reclamation, mooring structures (excluding swing moorings) and slipways;**
- **(h) maintenance dredging of navigation channels, turning basins and berths for the purposes of safe berthage and manoeuvring of commercial vessels;**
- **(i) maintenance, repair and replacement of marina infrastructure;**
- **(j) placement and maintenance of navigation aids;**

(k) marina administration including security, servicing and maintenance activities; and

(l) signage.

This policy identifies the purpose of a marina and describes the operational requirements for these facilities in Picton, Havelock and Waikawa. As a result of their placement in the urban environment, marinas serve additional purposes to simple boat mooring and there is often demand for a variety of activities to be located in close proximity to a marina. These activities may include boat brokering, charter boat hire, chandlery, sail making, parking, boat building, boat maintenance, club facilities and restaurants. For this reason, district and regional rules will permit a wide range of activities in the Marina Zone. The types of activities permitted are consistent with high levels of public access, which is common in marinas. However, for some activities within the coastal marine area, including those that require reclamation, the erection of structures and (in some instances) disturbance of the seabed, consent will be required.

[R, C, D]

Policy 13.17.5 – Recognise and provide for the following operational requirements of Port Landing Area Zones at Elaine Bay and Oyster Bay:

(a) shipping activities;

(b) cargo handling, storage of cargo and loading and unloading of ships;

(c) building and structures, wharves, mooring structures (excluding swing moorings) and launching ramps;

(d) marine fuel facilities;

(e) maintenance, repair, removal and replacement of buildings and structures;

(f) placement and maintenance of navigation aids; and

(g) signage.

The policy identifies the operational requirements for port landing areas at Elaine Bay and Oyster Bay. It emphasises the purpose of these port landing areas and, because they are located in areas where there is little other development, the activities provided for are much more constrained than activities in the Port Zone. Some activities in the Port Landing Area Zone will be permitted by district and regional rules. However, for some activities within the coastal marine area, especially those that require reclamation, the erection of structures or disturbance of the seabed, consent will be required.

[R, C, D]

Policy 13.17.6 – Activities not recognised as having an operational requirement (as identified in Policies 13.17.3 to 13.17.5) that are to be located in the Port, Port Landing Area or Marina Zones must be assessed through a resource consent to ensure that the efficiency and safety of the port/port landing area/marina is not compromised.

In relation to the coastal environment, NZCPS Policy 6(e) states the need to *'consider where and how built development on land should be controlled so that it does not compromise activities of national or regional importance that have a functional need to locate and operate in the coastal marine area.'* In the case of ports, this is further reinforced by Policy 9 of the NZCPS where it is stated that a national transport system requires an efficient network of ports. It is important therefore that activities located within the zoned boundaries do have an operational requirement to be located there. This is particularly important in the case of the ports and marinas in Picton, Havelock and Waikawa, which have been identified as regionally significant infrastructure. To effectively ensure the integrity of zones, the policy directs that those activities not directly related to the operational requirements specified in the previous policies (13.17.3 to 13.17.5) are to be assessed through the consent process.

[C]

Policy 13.17.7 – Where a new consent is sought for a swing mooring specifically identified in Standard 15.5.4.1, decision makers must have regard to:

- **(a) the proposed location of the swing mooring within that part of the Marina Zone in Waikawa Bay identified in Appendix 10 and the availability of space within that area;**
- **(b) the type and specification of the swing mooring, including the swing arc;**
- **(c) whether space is available within existing Moorings Management Areas in Waikawa Bay that could accommodate the swing moorings in Standard 15.5.4.1;**
- **(d) whether a new consent would unduly hinder the development of a marina in that part of the Marina Zone in Waikawa Bay identified in Appendix 10; and**
- **(e) the need for conditions to limit the duration of a consent to enable marina development to proceed.**

At the time of notification of the MEP (9 June 2016), an area alongside the existing marina in Waikawa Bay remains undeveloped but has been zoned to provide opportunities for additional berthage capacity. (This area is identified in Appendix 10 of Volume 3 of the MEP.) However, expansion of the existing Waikawa Marina into this zoned area is potentially constrained by the existence of a number of swing moorings at the same location. The swing moorings are identified in Standard 15.5.4.1. Policy has been included to allow these swing moorings to remain within the Marina Zone, but where a new consent is sought for these moorings regard is to be had to a) whether the development of a marina in this area would be hindered and b) whether consents may need to be limited in duration to enable a marina to be constructed.

[C]

Policy 13.17.8 – Use, development and occupation within the coastal marine area adjacent to but not directly connected with operation of the ports, port landing areas and marinas should not adversely affect day-to-day operations of those ports, port landing areas or marinas.

In the coastal marine area part of the Port, Port Landing Area and Marina Zones, there is the potential for individuals or organisations other than the port/marina operator to want to carry out certain use or development. Currently, Port Marlborough New Zealand Limited has occupation rights through Section 384A of the RMA for certain areas of the coastal marine area associated with its operations. It is important that for uses or developments not related to the operational requirements set out in Policies 13.17.3 to 13.17.5 consent is required, allowing the Council to consider the effects of the proposed use on the operation of the port, port landing area or marina.

[R, C, D]

Policy 13.17.9 – Where an activity not related to operational requirements is proposed in the Havelock Port Zone, then decision makers must take into account the following matters:

- **(a) the extent to which the activity impacts on the matters in Policy 13.17.6; and**
- **(b) the availability of suitable land elsewhere in Havelock.**

This policy recognises the potential difficulties in finding land available in Havelock for industrial or commercial purposes. In determining whether it is appropriate for an activity not related to the operational requirements provided for within the Havelock Port Zone to be allowed, the consideration of whether there is available land elsewhere in Havelock is relevant. Equally important however, is the extent to which the proposed activity would impact on the matters identified in Policy 13.17.6 (the efficient and safe operation of the port) and Policy 10 of the NZCPS.

[C, D]

Policy 13.17.10 – Restrictions on public access to and within port areas may be appropriate to maintain public health, safety and security.

The operational area of a port is often popular for a range of recreational activities such as fishing, walking and viewing port activities. However, these activities are not always compatible with a working port. Health and safety hazards, international security legislation and local security needs may require restricted access, particularly for an export port such as Picton. As reclamation and port developments have the effect of limiting public access to public resources (i.e. the coastal marine area), limitations on public access should only be exercised where necessary.

[C, D]

Policy 13.17.11 – Restricting public access to, within and through marinas should be avoided unless public health, safety or security is an issue.

Marinas are often popular with people for walking and viewing day to day activities. In some circumstances, such as at Picton and Waikawa marinas, they also provide access to the foreshore beyond the marina. Provision for public access has in the past been a requirement of consent to establish or extend marinas. For this reason it is important that restrictions on public access to these areas are avoided, unless real and apparent concerns for public health and safety or for the security of boats exist.

Issue 13K – There is potential for adverse effects to arise from the operation and maintenance of existing ports at Picton and Havelock, port landing areas at Elaine Bay and Oyster Bay and existing marinas at Picton, Waikawa and Havelock.

Ports and marinas spanning the land/water interface are one of the most concentrated forms of development within the coastal environment. The nature of activities occurring within ports, port landing areas and marinas means there is the potential for adverse effects to occur. Unless appropriate management mechanisms are in place, these potential adverse effects can be significant. Noise and traffic movement may be of concern to nearby residents when boats/trucks enter and leave facilities at all hours of the day and night. Lighting may also be of concern as ports and marinas are commonly lit at night for security reasons. Other activities may involve discharges to air or water and depending on the exact nature of these activities, they may also be an issue for nearby residents or the wider environment. While Marlborough currently experiences very little conflict between residential areas and ports (compared to most of New Zealand's larger port cities), any adverse amenity effects need to be minimised as much as possible.

Permitted activity standards are the appropriate mechanism by which the effects of activities within ports and marinas can be managed. Occasionally infrastructure within the ports or marinas may need to be replaced, expanded or altered to meet changing commercial demands or needs. Any expansion or significant alteration to facilities has the potential to cause significant environmental effects and these must be carefully assessed, particularly within the coastal marine area.

[R, C, D]

Objective 13.18 – Operation and maintenance of the Port, Port Landing Area and Marina Zones occurs in a way that minimises adverse effects on adjoining zones, water quality, air quality and values of the coastal environment.

By its very nature the operation of a port, port landing area or marina creates the potential for adverse effects to occur on the surrounding land and coastal marine area. This objective seeks to ensure that the operation and maintenance of ports, port landing areas and marinas in their

respective zones occurs in a way that protects the values and uses of the sensitive coastal environment within which these facilities function.

[R, C, D]

Policy 13.18.1 – Ensure the intensity, character and scale of development and operation of Port, Port Landing Area and Marina Zones is appropriate in relation to the values of the coastal environment in these locations.

Functionally, ports and marinas must be located in the coastal marine area and therefore constitute an appropriate activity in the context of Policy 6(2)(c) of the NZCPS. In Marlborough, the places identified as being appropriate for these activities are zoned in the MEP. However, the coastal environment in which these zones are located is sensitive to change, even where there has been modification of that environment. This policy therefore seeks to ensure that the intensity, character and scale of development and operation of each of the Port, Port Landing and Marina Zones recognises the particular values of the coastal environment at each of the identified areas. For example, the relatively unmodified coastal environment at Elaine Bay and Oyster Bay means that the range of activities provided for is more limited than those permitted at the ports of Picton and Havelock. However, it is still important to ensure that the development and ongoing operation in Havelock and Picton ports is sensitive to the values of the coastal environment and most importantly to the connection and relationship these areas have with their respective towns.

[R, C, D]

Policy 13.18.2 – Ensure that activities occurring within Port, Port Landing Area and Marina Zones do not adversely affect water, air or soil quality within or beyond the zone boundary, by:

- **(a) the setting of standards for permitted activities;**
- **(b) prohibiting the discharge of effluent from boats berthed within ports, port landing areas or marinas;**
- **(c) requiring the provision of facilities for:**
  - **(i) the collection and disposal of rubbish, sewage effluent and other wastes from boats;**
  - **(ii) boat maintenance activities (including sanding and blasting effects); and**
  - **(iii) the avoidance of contamination of water by the application and removal of antifouling paints.**

This policy seeks to ensure that port and marina operations do not have an adverse effect on water, air or soil resources within and beyond zone boundaries. In some cases, adverse effects will be mitigated through the setting of standards for permitted activities for discharges. In other cases, consent will be required to allow a discharge to occur and this will need to be considered with regard to the resource quality policies contained in Chapter 15 - Resource Quality (Water, Air, Soil).

[C, D]

Policy 13.18.3 – Ensure the potential for reverse sensitivity effects arising from any noise-sensitive activities located in zones adjoining Port, Port Landing Area and Marina Zones is minimised by:

- **(a) avoiding encroachment of residential activities towards and around ports/port landing areas; and**
- **(b) avoiding residential activities within marinas.**

One of the most significant amenity effects arising from the operation of ports, port landing areas and marinas is the generation of noise. Ports, especially in Picton and Havelock and marinas in Picton, Waikawa and Havelock operate in close proximity to residential areas and subsequently there is potential for noise to be an issue for nearby residents. To enable the ports, port landing

areas and marinas to operate efficiently while also protecting amenity values for nearby residents, it will be necessary to avoid residential activities encroaching on these zones. Standards will therefore be imposed for residential activities through the use of noise contours, which reflect the present level of effect experienced by adjacent properties.

[R, C, D]

Policy 13.18.4 – The environmental effects from activities within Port, Port Landing Area and Marina Zones are avoided, remedied or mitigated through the setting of standards so that:

- **(a) vehicle parking, access and loading do not adversely affect the operation of the port/marina, road system or safe pedestrian movement;**
- **(b) signage enables public identification of port and marina operations but does not dominate the landscape;**
- **(c) structures and buildings in the various Port and Marina Zones do not dominate the landscape, particularly when having regard to visual effects as viewed from the adjoining zones in Picton and Havelock;**
- **(d) the location or height of buildings does not shade sites in adjacent zones;**
- **(e) noise levels allow the zones to function effectively, but also minimise noise nuisance for surrounding residents; and**
- **(f) light spill does not occur in adjoining Urban Residential, Open Space and Business Zones.**

This policy seeks to manage the effects of port operations through the setting of standards for permitted activities. This will enable a wide range of activities to occur within Port Zones and Marina Zones in a manner that avoids, remedies or mitigates adverse effects of port and/or marina operations on the immediate and wider environment, including on adjoining zones.

[C]

Policy 13.18.5 – Dredging for the maintenance of berths and identified navigation channels shall be recognised as an appropriate activity in Port and Marina Zones subject to standards to mitigate adverse effects, including those on navigational safety, water quality and aspects of the dredging operation, such as limits on the volume able to be dredged.

Although an enabling approach has been taken to dredging in and around port and marinas, limitations will be placed on the amount of material able to be dredged to ensure that navigational safety is maintained and impacts on water quality are no more than minor.

[C]

Policy 13.18.6 – Where dredging is proposed in Port and Marina Zones but exceeds specified volume limits or is associated with the construction of a new berth, the following matters will be considered:

- **(a) the need for dredging, including the volume;**
- **(b) the length of time over which the dredging activity will occur;**
- **(c) how adverse effects of sediment disturbance and the release of contaminants into the surrounding environment will be mitigated; and**
- **(d) where the dredged material is to be disposed of or deposited. (Policies under Objectives 13.12a and 13.12b will also need to be considered if disposal/deposition is to occur within the coastal marine area.)**

Where the volume of material to be dredged exceeds that enabled through rules or where it is necessary in conjunction with the construction of a new berth, a resource consent will be required and the matters identified in this policy are to be considered through the decision making process. Additionally, the location of where the dredged spoil is to be disposed of must be identified in the

application as resource consent requirements will exist. If disposal is to occur within the coastal marine area, policies under Objectives 13.12a and 13.12b also need to be considered.

[C]

Policy 13.18.7 – Where a resource consent is required to extend or alter port or marina infrastructure and this is to occur within that part of the Port or Marina Zone located in the coastal marine area, the following matters shall be considered:

- **(a) the intended use of the extended or altered infrastructure (having regard to Policies 13.17.3 and 13.17.4) and the benefits likely to arise from this use;**
- **(b) the design of structures/reclamation, including size and construction materials;**
- **(c) where reclamation is involved (Policies 13.11.2, 13.11.4, 13.11.6 – 13.11.9);**
- **(d) whether there will be a loss of public access or use of the area and/or public access to and along the coastal marine area will be impeded;**
- **(e) the effects of glare, lighting and noise;**
- **(f) the effects on natural coastal processes;**
- **(g) the effects during construction on:**
  - **(i) other users of the area, navigation and public safety; and**
  - **(ii) water and air quality.**

Operations at ports are constantly changing along with the nature of shipping activity and the needs of cargo and passengers. Flexibility is therefore required in the way a port or marina operates in response to changing customer needs. In the coastal marine area part of the Port Zone and Marina Zone, it will be important to consider the impacts of any expansion or alteration through the resource consent process, including the impacts on other users during construction. Other users may include people living adjacent to the proposed site, recreational users and those with cultural interests in the area. The matters for consideration in this policy and for which it may be appropriate to impose conditions on consent to remedy or mitigate effects, are limited in extent in recognition of the generally highly modified character of the existing port and marina facilities in Havelock, Waikawa and Picton. The policy also includes reference to a number of identified policies from Issue 13G.

[C, D]

Policy 13.18.8 – Promote visual and physical connections between Port and Marina Zones and their respective town centres, neighbouring urban areas and foreshore areas through landscape design and enhancement measures compatible with the visual character of the surrounding urban and coastal environment.

The ports at Picton and Havelock have a close association with their respective town centres and this relationship needs to be carefully managed. The connections considered important are physical and visual, in terms of providing good linkages between the towns and the ports as well as making the ports an attractive place to visit or view. In Havelock this is important because the port functions as a recreational boating marina as well as an operational port. This combination of uses brings many visitors to the Havelock Port. In Picton the linkages between the ferry terminal, foreshore and town centre are also particularly important, given the significant number of tourists who travel through the ferry terminal every year. For those marinas that have close associations with their respective urban and coastal surroundings, connections are also visually and physically important. The linkages between ports and marinas and their respective surroundings also help to enhance public access to the coastal marine area, as required by Section 6(d) of the RMA.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[C, D]

13.M.24 Zoning

Zones are established to provide for the operation of ports adjacent to the towns of Picton and Havelock as well as those smaller facilities located in more remote areas of Marlborough. The use of two zones reflects the different scale and type of activity/use that occurs at each facility. A Port Zone is applied to land and water areas in Picton (including Shakespeare Bay) and at Havelock, while a Port Landing Area Zone is applied to land and water areas in Elaine Bay (Tennyson Inlet) and Oyster Bay (Port Underwood).

A Marina Zone is applied to land and water areas in Picton and Waikawa, while a Marina Zone has been applied to part of the land area at Havelock consistent with the activities in that particular area.

[R, C, D]

13.M.25 Regional and district rules

Rules provide for a range of activities within the identified zones. In many cases activities are provided for as permitted subject to standards. This reflects the operational requirements of the particular zone. The standards include bulk and location standards, standards to avoid amenity conflicts with adjoining zones and in some cases, most notably in Shakespeare Bay, a setback from boundaries to protect visual and biodiversity values. Most activities within the coastal marine area will require a resource consent, as will activities that are not related to the operational requirements of the zone.

[D]

13.M.26 Liaison

The Council will liaise with port and marina operators in enhancing the landscape quality and integration of foreshore areas and town centres.

[C, D]

13.M.27 Guidelines for urban design

The Council is developing guidelines for urban design (including for the colour of buildings) which will be applicable in the port and marina areas.

Lake Grassmere Salt Works

Lake Grassmere is located in southern Marlborough, approximately six kilometres south of the Awatere River and immediately north of Cape Campbell. The lake has been extensively modified for the production of solar salt. Construction of the salt works at Lake Grassmere began in 1943 in response to shortages of rubber available during World War 2. (Salt was needed to make caustic soda, which was required in the process of recycling old rubber.) The first harvest of salt occurred in 1949.

Lake Grassmere was considered an ideal site for making salt for a number of reasons. Low rainfall, high sunshine hours and strong drying winds during the summer months (generally from the north-westerly direction) provided ideal environmental conditions. The lake's location was also important, situated in a large area of flat terrain with impervious soils, close to the coast and providing unimpeded access to sea water and ready access to transport facilities. Today, approximately 50 percent of New Zealand's annual salt consumption and specialist high grade salt is produced and exported from Lake Grassmere.

Sea water is pumped into the lake through an intake structure and a series of concentrating ponds where its concentration increases. Salt is finally deposited on the bottom of the crystallising ponds in summer and harvesting usually begins by early March. Between 60 and 70 thousand tonnes of salt are harvested each year. A variety of storage and processing facilities on the edge of the lake have been established in connection with the harvest of solar produced salt from the crystallising ponds. From the stockpiled mounds, salt is processed into a cleaned, bagged product or refined and processed to specific end products.

Issue 13L – The production of solar salt at Lake Grassmere is important to Marlborough but there is potential for adverse effects on the environment to arise through production and harvesting processes.

It is important to recognise that although there are economic benefits to Marlborough and New Zealand from the salt works, its operations need to be carefully managed to ensure adverse effects do not arise.

The production of solar salt at Lake Grassmere contributes to the Marlborough economy through the provision of employment at the salt works and during harvest when contract equipment is needed, (for example, trucks to transport salt). The salt works operation also contributes to the national economy through the export of high grade specialist salt (refined at Mt Maunganui from salt harvested at Lake Grassmere).

While the salt works operations have continued for over 60 years, there is the potential that the salt production process will have adverse effects on the surrounding environment. Despite the modifications made to the lake in the development of salt works activities, the lake and its environs still hold a number of important values:

- Lake Grassmere is highly valued for its bird life. It has national importance as a stopover for domestic and overseas migrating birds, including species such as the rarely-seen New Zealand dotterel;
- areas of remnant estuarine habitat, including saltmarsh; and
- the area around the southern and south-eastern side of the lake has considerable historical significance for some of Marlborough's tangata whenua iwi.

It is important that these values continue to be unaffected by salt works activities.

Lake Grassmere was chosen for the solar production of salt partly because of the hot, drying winds in summer that aid in the crystallisation process. However, these same winds can also carry dust, which may be salt laden. If salt-laden dust falls on properties surrounding the lake, farmland could potentially be contaminated. Salt-laden foam generated by waves on the lake can also potentially be a problem for adjoining properties if winds are strong enough to carry foam. Salt-laden water can also be pushed by strong winds up Cattle Creek, which runs through a diversion channel around the south end of the crystallising ponds before exiting into Lake Grassmere under the rail bridge. This could affect the ability of Cattle Creek to be used for stock drinking water.

The Lake Grassmere area has low annual rainfall ideal for salt production, but management of freshwater becomes important during storm events or periods of prolonged rain. Rainwater lying on top of the crystallising ponds is decanted off as it can dissolve the salt crust as it forms. The decanted seawater is salt-laden and is used to help control dust in the areas surrounding the crystallising ponds or can be recycled through the concentration ponds.

[RPS, R, C, D]

Objective 13.19 – Enable the production of solar salt at Lake Grassmere in a sustainable manner.

The production of solar salt at Lake Grassmere is unique in New Zealand and some of the methods used are unique in the world. It is therefore important that provision is made in the MEP to enable the activity to continue. As the salt works operation stands, it is lawfully established, having existing use rights under the RMA for a good part of its operations. Notwithstanding these rights, it is important that activity continues in a sustainable manner.

[RPS, R, C, D]

Policy 13.19.1 – Recognise the national and District significance of the salt works operation.

The Council recognises the importance of the salt works operation at Lake Grassmere in terms of its national and District significance. The Council has therefore identified the area used by the salt works operation with a specific zone that reflects the activities that occur there. The zone extends to provision within the coastal marine area to accommodate the intake of seawater.

[R, C, D]

Policy 13.19.2 – Enable the continuation of the salt works operation, provided that appropriate measures are in place to avoid the potential for cross-boundary effects and that any other adverse effects on the environment are avoided, remedied or mitigated.

The solar production of salt has the potential to cause environmental effects, particularly for the surrounding rural land. These effects include dust, noise, soil contamination and wind-borne salt foam. However, because the salt works operation is already established, a degree of permissiveness has been provided by the rules for established activities with minor adverse effects. Resource consents are required for other activities where there may need to be a higher level of scrutiny to ensure adverse effects can be avoided, remedied or mitigated.

[R, C, D]

Policy 13.19.3 – Encourage the establishment of a landcare group comprising residents, iwi, Department of Conservation and the salt works company to manage the boundary area of the Lake Grassmere Salt Works Zone.

The Council considers that the establishment of a landcare group or similar would be of benefit to those with interests in the area, particularly in terms of the continued management of the effects of the salt works operation at the boundary of the zone.

[C, D]

Policy 13.19.4 – Activities in the coastal marine area will be required to meet standards that will maintain the quality of coastal water at Class NS within a one kilometre radius of the coastal water intake existing at 30 May 2002.

It is important to recognise that the salt works operation relies on the ability to pump high quality sea water into the lake to begin the salt production process. This policy, although not applicable within the Lake Grassmere Salt Works Zone itself, sets a standard for water quality that activities occurring outside the Zone need to ensure is maintained.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[C, D]

13.M.28 Zoning

The Lake Grassmere Salt Works Zone is identified on MEP planning maps and includes the lake itself, an administration and processing area and a Pipeline Extension Corridor in the coastal marine area.

[D]

13.M.29 District rules

District rules permit the solar production of salt and associated by-products and the full range of processes required, subject to standards and conditions. Conditions are included to protect surrounding rural land uses from excessive noise, soil contamination, dust and wind borne salt foam.

[R, C]

13.M.30 Regional rules

Regional rules permit a range of discharges required as part of the production process, subject to standards and conditions. Conditions are included for discharges to air, to the coastal marine area for diluted brine, and for excavation of a temporary stormwater outlet.

Rules require resource consents for certain discharges to air, excavation of land and activities in the coastal marine area. Resource consents are also required for activities associated with management of salt water intrusion into Cattle Creek and to manage stormwater entering Lake Grassmere.

[D]

13.M.31 Landcare group

The Council will encourage the establishment of a landcare group with membership from residents, iwi, the Department of Conservation and the salt works company.

Anticipated environmental results and monitoring effectiveness

The following table identifies the anticipated environmental results for provisions for the coastal environment. The anticipated environmental results are ten year targets, unless otherwise specified. For each anticipated environmental result, a series of indicators will used to monitor the effectiveness of the provisions. Anticipated environmental results from several other chapters will also assist in achieving the anticipated environmental results set out here; for example, chapters on public access, biodiversity, landscape and natural character.

Anticipated environmental result	Monitoring effectiveness
13.AER.1	
The values associated with areas of significance identified on the MEP maps are protected.	Periodic reassessment of mapped areas of significance for natural character, landscape, biodiversity, heritage and Marlborough's tangata whenua iwi. Survey of stakeholder and interested parties perspectives of values of significance in Marlborough's coastal environment. All resource consent decisions show that consideration has been given to the mapped values. Monitoring of resource consent conditions imposed to protect areas of significance.
13.AER.2	
Subdivision, use and development of the coastal environment, including on land and water, is located in appropriate places and within appropriate limits.	No resource consents are granted for areas identified as inappropriate for development within the coastal environment. New building and development in the coastal environment is consistent with the character of the area, including retaining a lower density of development in the coastal environment. Consistent treatment of resource consent applications for activities in the coastal environment. No coastal permits are granted for activities without a functional need for a coastal location. Monitoring of resource consent conditions imposed to address the effects of activities on a particular location. Reassess the zonings applied to land and water to ensure that appropriate areas are identified for use and development in the coastal environment.
13.AER.3	
Aside from residential activity associated with rural activities, residential activity in Marlborough's coastal environment takes place within Coastal Living Zones.	A decrease in subdivision for residential activity outside of Coastal Living Zones. Survey land use within Coastal Living Zones to determine availability of land for residential activity.

Anticipated environmental result	Monitoring effectiveness
13.AER.4 Continued availability of rural land for primary productive purposes existing at 9 June 2016.	Survey patterns of land use against a baseline, including actual use and changes in use.
13.AER.5 The amenity values of the coastal environment are maintained and enhanced.	Enforce the application of standards established to protect amenity values. Survey the public about their perspectives of the attributes contributing to amenity values in Marlborough's coastal environment and how activities and uses may be affecting these values. Monitor complaints and/or incidents received from landowners and the public about activities and uses in the coastal environment.
13.AER.6 Equitable, efficient and sustainable allocation of water space in the coastal marine area.	Monitor the number and nature of complaints made by the public about conflicts with the allocation of water space. Assess the need to introduce Mooring Management Areas in locations other than Waikawa Bay to address a demand for swing moorings, including competing demand for other uses or activities in the same space. Review coastal permits for swing moorings to assess the need for multiple moorings servicing a property.
13.AER.7 The public is aware of information relating to the location of safe anchorages, provisions for safe navigation around Marlborough's coastal waters and the location of access points and water ski lanes.	Information is available on the Council's website and reviewed annually regarding: (a) navigational notices and directions from the harbourmaster; (b) navigational safety in general through the 'Marlborough Sounds Safe Boating' brochure published annually; (c) appropriate locations for activities such as water skiing and swimming.

Anticipated environmental result	Monitoring effectiveness
13.AER.8 Ships/boats are able to safely and efficiently navigate Marlborough's coastal marine area.	Monitor the number and nature of collisions, accidents or incidents within the coastal marine area. Monitor the number and nature of complaints made by the public about operation of ships/boats. Monitoring of resource consent conditions imposed to address navigational safety.
13.AER.9 Waves generated from ships do not create adverse effects on the environment.	Ship operators comply with speed limits specified in MEP rules or by resource consent conditions through monitoring of ships' Data Recording Device. Monitor the number and nature of complaints made by the public about ship-generated waves. A five yearly assessment is carried out to determine the need to undertake monitoring specified in Policy 13.16.4 and the monitoring method (13.M.19) set out for water transportation.
13.AER.10 A proliferation of coastal structures is avoided.	Monitor the number and extent of coastal structures authorised and conditions imposed to require sharing of structures where practicable.
13.AER.11 No boatshed is used for any purpose other than the storage of boats or boating equipment.	All new resource consents for boatsheds are conditioned to prohibit the use of the boatshed for living accommodation or the installation of sanitary fittings in boatsheds. A reduction in instances of boatsheds being used for living accommodation through compliance monitoring.
13.AER.12 Clearly defined areas and operational requirements for port and marina activities, including areas for expansion.	Activities occurring in port and marina areas are enabled where related to the operation of those facilities and few resource consents are required.

Anticipated environmental result	Monitoring effectiveness
13.AER.13 Ports and marinas are able to operate effectively and efficiently.	Few resource consents are required for port and marina related activities. Monitor complaints received from port and marina operators about the impact of non-port and marina related activities occurring within the coastal marina area part of the Port, Port Landing Area and Marina Zones.
13.AER.14 Adverse effects of use and development in the Port, Port Landing Area and Marina Zones are controlled to acceptable levels of environmental quality.	Monitor complaints from the public about effects arising from operation of port and marina activities. Compliance with conditions for those activities requiring consent.
13.AER.15 There is a high level of integration and connection between ports and marinas and their respective towns.	Surveys on the: (a) ease with which the public can move between the Port of Picton and the town; (b) ability for the public to access marinas; and (c) appearance of marinas as an attractive place to visit.
13.AER.16 Integrated management of fisheries and natural and physical resources.	Increased awareness and understanding of the respective roles of Council and other parties in coastal and fisheries management. Ongoing communication with the Minister of Primary Industries in respect of the sustainable management of natural and physical resources as it relates to fishing activities.
13.AER.17 The continued sustainable and efficient functioning of the Lake Grassmere Salt Works.	Monitor complaints from the public about effects arising from the operation of the salt works.

ANNEXURE 2.I

EDS reasons and relief in comment boxes and/or track-changes.
EDS also seeks any consequential relief, including to the PMEP rules, necessary to respond to the issues raised and give effect to the changes sought.
Provisions not specifically commented on are supported (subject to the changes sought).

15. Resource Quality (Water, Air, Soil)

Introduction

We are fortunate in Marlborough to generally enjoy good water quality[1] in our coastal waters, rivers, lakes, wetlands and aquifers. Monitoring has shown that the quality of water in these waterbodies is sufficient to support a wide range of natural and human use values. These include healthy freshwater and marine ecosystems, comprising native fish, plants, algae and invertebrates, trout and salmon; stock and domestic water supplies; commercial uses of water in industry, agriculture, viticulture, marine farming and commercial fishing; and recreational uses such as swimming, shellfish gathering and fishing, scenic and tourism purposes. Water is of considerable cultural and spiritual importance to Marlborough's tangata whenua iwi.

The contribution that these uses and values make to the community's social and economic wellbeing and to public health means that maintaining the quality of water in Marlborough's coastal waters, rivers, lakes, wetlands and aquifers is essential. Any reduction in water quality is therefore a significant issue in Marlborough.

Water quality can be adversely affected by discharges of contaminants resulting from human activities on land or water. Contaminants are those things that have the ability to change the physical, chemical or biological condition of the water. There are two types of contaminant discharge that can affect water quality: "point source" discharges (those that enter water at a definable point, often through a pipe or drain) and "non-point source" discharges (those that enter water from a diffuse source, such as land run-off or infiltration through soils).

The generally good state of water quality in Marlborough reflects the low number of point source discharges into waterbodies and coastal waters, good land management practices and lack of intensive land uses that can impact on water quality (e.g. dairying). It should also be acknowledged that over time, resource users have also taken action to reduce the impact of discharges on water quality. However, there is always the potential that point source and/or non-point source discharges will occur and adversely affect the life supporting capacity and community use of Marlborough's rivers, lakes, wetlands, aquifers and coastal waters.

Unfortunately, water quality in some rivers has been degraded as a result of point source and non-point source discharges, impacting upon the uses and values that were once supported by the rivers and coastal waters.

The management of water quality has a strong regulatory focus. This is because the Resource Management Act 1991 (RMA) stipulates that the discharge of contaminants into water, or into or onto land in circumstances where it may enter water, is prohibited unless allowed by resource consent or a rule in a regional plan or a regulation.

In addition, the National Policy Statement for Freshwater Management 2014 (NPSFM) sets out objectives and policies that direct the steps that must be taken to manage water in a sustainable manner. In particular, there is a requirement to set objectives for water resources and subsequently to set water quantity and quality limits to achieve those objectives. The NPSFM sets as an objective that the overall state of water quality within any region must be maintained or improved.

[1] Water quality refers to the physical, chemical and biological characteristics of water that affect its ability to sustain natural and human use values

A key component of the NPSFM is the National Objectives Framework (NOF). The NOF is designed to assist the process of establishing appropriate freshwater quality objectives in a nationally consistent manner. It is based on the identification of values supported by waterbodies and the setting of objectives to protect those values. The NOF contains two compulsory national values: ecosystem health and human health for recreation. Attributes, or measurable physical, chemical and biological characteristics are identified with respect to these values.

Water

Issue 15A – The discharge of contaminants to water can adversely affect the life supporting capacity and the community's use of Marlborough's coastal waters, rivers, lakes, wetlands and aquifers.

The good state of water quality in Marlborough's coastal waters, rivers, lakes, wetlands and aquifers makes them more vulnerable to point source and non-point source discharges. Any deterioration in water quality would have dramatic implications for Marlborough's social, economic and cultural wellbeing, as good water quality is essential for a wide range of consumptive and non-consumptive uses. A reduction in water quality could also adversely affect freshwater and marine habitats. The main threats to water quality in Marlborough are described below.

Sewage reticulation and disposal

Treated sewage from Marlborough's larger communities is still discharged into fresh or coastal water. Although these discharges are authorised by resource consents, the review of the MEP provided the community with the opportunity to reconsider the desirability of continuing to discharge contaminants into water. The discharge of treated municipal sewage is the outcome of servicing communities to maintain community health standards. However, Marlborough's tangata whenua iwi consider that the discharge of human waste into fresh or coastal water is profoundly offensive and significantly diminishes the mauri of the receiving waters.

As Marlborough continues to grow, it will be necessary to consider how future residential, commercial or industrial developments are serviced. For larger communities, this is still likely to require some form of reticulated community sewerage system. Existing servicing arrangements may also need to be upgraded. For example, the reliance of several Marlborough Sounds communities on the on-site management of domestic wastewater may be unsustainable and need to be replaced with community sewerage schemes. Discharge of treated sewage into water may be one of the options that need to be considered.

It is important that the MEP provides direction as to how adverse effects of existing and any new discharges on fresh or coastal water quality should be managed. Existing reticulated community sewerage systems operated by the Council are recognised by the MEP as regionally significant infrastructure. (See Chapter 4 - Use of Natural and Physical Resources for further details.) Unless otherwise specified, policies in Chapter 15 still apply to the discharge of human sewage from this infrastructure.

Stormwater reticulation and disposal

Most of Marlborough's towns are serviced by reticulated stormwater systems. Urban stormwater will pick up contaminants including sediment, solids, organic matter, nutrients, heavy metals and petroleum and product residues as its runs over impervious surfaces. Given the volume of water created by rainfall events, the stormwater receives little or no treatment prior to discharge into the receiving waters.

Monitoring of fresh and coastal water quality has demonstrated that stormwater discharges do sometimes degrade the quality of receiving waters. Periods of contamination tend to be episodic and are associated with rainfall events. The exception is when contaminants are deliberately washed or poured into the road kerb or stormwater drains.

Stormwater can also pick up sewage through cross-connections between sewerage and stormwater pipes. This has been a particular problem in Picton and has caused periodic contamination of coastal water during rainfall events.

Transport

A large part of the urban areas that are serviced by reticulated stormwater systems are used extensively by and for motor transportation (this includes public and private carparks, service stations and roads). The deposition of materials such as petrochemicals and heavy metals from motor vehicles onto roads and vehicle servicing areas is a major source of water pollution. These contaminants are transported by runoff into the reticulated stormwater system and subsequently into coastal waters and rivers.

Industrial and trade activities

Nearly all water pollution caused by industrial and trade activities occurs through contaminants entering reticulated stormwater systems. The main causes are untidy yard practices, accidental spills and a lack of awareness within the workforce of the pollution consequences that can stem from actions on such sites. Other contributing factors include inappropriate storage of products, new industrial or trade premises moving into premises unsuited for their operation, illegal stormwater connections and inappropriate methods for the disposal of wastewater.

Some trade waste entering the sewer contains human waste, such as mortuary and hospital wastes. Marlborough's tangata whenua iwi consider that the discharge of human waste to fresh or coastal water is profoundly offensive and significantly diminishes the mauri of the receiving waters.

Maritime activities

Degradation of coastal waters can result from common maritime activities, including the discharge of human sewage and oily bilge water from ships, runoff from maritime industries such as boat builders, and general litter. The effects of these activities tend to be short-lived, unless they occur on a significant scale or are ongoing in a localised area.

There is increasing awareness of the effect of antifoulants on coastal water quality. Antifoulants enter coastal water through leaching and boat maintenance activities. Marine farming involving fin fish requires the addition of feed, which has the potential to adversely affect coastal water quality in and around the marine farming operation.

Land disturbance

Land disturbance activities including excavation, cropping, clearance of land and harvest of commercial forest can expose soils to the elements and result in the runoff of sediment-laden water during and after rainfall events. Land development for residential, commercial and industrial purposes can have similar effects. Land disturbance activities associated with the installation of bores or the construction of dams can expose aquifers to contamination. While natural processes already affect water quality, it is important to ensure that our activities do not exacerbate this situation.

Rural activities

It is acknowledged that many rural land uses rely on good quality water for stock watering and irrigation. However, rural land uses can also adversely affect water quality in a number of ways.

Grazing stock inevitably results in the discharge of faeces and urine onto the ground surface. Other inputs such as fertiliser and agrichemicals are also applied to pasture and crops as part of normal operations. As in the case of land disturbance, runoff during and after rainfall events can pick up these substances and lead to the input of nutrients, bacteria and other contaminants into nearby waterbodies. The historic loss of wetlands and vegetated riparian margins makes this situation worse, as these intercept and/or treat the contaminants present in runoff. There is also the potential for contaminants (in particular, nitrate) to leach through the soil into underlying groundwater, especially where the aquifer is shallow and occurs within and below permeable soils.

Dairy herds and other intensively farmed stock crossing the wet bed of waterbodies has been a major cause of degraded water quality in some catchments. The animals disturb the waterbody as they walk through the wet bed, resulting in the release of sediment into the water. They also defecate and urinate in the stream, resulting in the release of bacteria and nutrients into the water.

There is the potential for rural activities to change and intensify in the future. For example, in many other regions there has been a change from traditional pastoral farming to dairy farming. This has led to water quality degradation, especially in lowland streams and for groundwater.

Discharges to land

There are many point source discharges to land, including discharges of winery, vegetable processing and domestic wastewater and dairy shed effluent. If not correctly operated and managed, these discharges could also contaminate coastal waters and waterbodies in close proximity to the discharges. Managing the effects of discharges to land is dealt with in Chapter 16 - Waste.

Bed disturbance

Activities occurring within riverbeds can result in the deliberate or inadvertent disturbance of the bed. Activities that can cause bed disturbance include gravel extraction, installation of infrastructure and flood mitigation works. Bed disturbance can mobilise river sediments and increase the turbidity of river water, especially where the disturbance is occurring within the wet bed (that part of the bed covered by water). This has the effect of reducing the clarity of the water, discolouring the river. Similar effects can also occur when land disturbance occurs along the river margin.

Water abstraction

The taking of water from aquifers in coastal areas has the potential to create a landward shift in the freshwater/seawater interface. If the interface moves a sufficient distance inland, salinity levels in the groundwater become elevated. This would adversely affect the ability to use the water for domestic and municipal supply, irrigation and other uses.

Natural processes

In the context of the above, it is also important to note that natural processes may influence water quality. For example, groundwater quality often reflects the mineralogy of the aquifer it originated from, especially if the groundwater has high residence time. This means that

some Marlborough groundwaters have high levels of naturally occurring contaminants such as salt, iron and arsenic. There is also potential for bacteria from the faeces of feral animals (e.g. goats, pigs and possums) and other wildlife to contaminate fresh and coastal waters.

Occasionally, natural processes will result in sediment reaching both fresh and coastal water, particularly during rainfall events. This affects the clarity and turbidity of water and the resulting dirty waters can have an impact on freshwater and marine life.

Combinations of the threats described above can occur within the same catchment, creating the potential for cumulative adverse effects on freshwater and coastal water quality.

Some coastal waters and waterbodies are more susceptible to water quality degradation than others. For example, the enclosed nature of the coastal waters in the Marlborough Sounds renders this water particularly sensitive to contamination, as dilution and tidal flushing is limited. Unmodified rivers, lakes and wetlands are also particularly vulnerable to the discharge of contaminants. Other coastal waters or waterbodies may have significant values that warrant special protection.

There has been a strong preference for discharges to land since the first Marlborough Regional Policy Statement (MRPS) became operative in 1995. This has resulted in a reduction in the number of point source discharges to water. Consequently, the greatest risk to water quality is probably associated with non-point source discharges. Non-point source discharges are difficult to manage as there is no discrete point to which management can be applied. This situation does not justify inaction, but means that the management of non-point source discharges is challenging and will require innovative approaches. It is important that the MEP provides a framework to deal with the point source and non-point source discharges to maintain and enhance water quality in Marlborough's coastal waters, rivers, lakes, wetlands and aquifers.

Issue 15B – Water quality in some of Marlborough's rivers has already been degraded, to the extent that their ability to support aquatic ecosystems and/or contact recreation has been compromised.

Monitoring of water quality as part of the Council's State of the Environment monitoring programme has established that water quality has become degraded in some rivers, relative to the natural and human use values that these rivers support or have supported in the past. Of particular note are changes in nutrient (nitrate and phosphorus), sediment and bacteria levels. Increasing levels of these contaminants is indicative of the impact of point source and non-point source discharge to rivers. These discharges have reduced the ability of the rivers to safely support primary contact recreation (i.e. swimming) and aquatic ecosystems. This is a significant concern given the contribution that water-based recreation makes to community wellbeing and the intrinsic values of aquatic ecosystems.

Water quality degradation is measured relative to the attribute values provided by the National Objectives Framework included in the NPSFM and/or the Council's water quality index. The water quality index, based on the Canadian Water Quality Index, summarises monthly measurements of nine chemical and physical parameters to produce an aggregate score for the state of water quality in Marlborough's rivers. The score allows the overall state of water quality to be categorised as excellent, good, fair, marginal and poor, relative to the natural or desirable level.

The rivers determined to be degraded (poor or marginal in the index) or at risk of degradation (close to marginal in the index) on the basis of the Council's 2014/15 State of the Environment Report are identified in Tables 15.1 and 15.2 below.

Table 15.1: Waterbodies identified through monitoring as being degraded.

Rivers
Are Are Creek
Doctors Creek
Duncan (Linkwater) Stream
Flaxbourne River
Mill Creek
Murphys Creek
Omaka River
Ōpaoa River
Ronga River
Taylor River
Tuamarina River
Wairau Diversion

Comment [N1]: The Para Wetland has not been included. Although MDC does not monitor this water body this is evidence to suggest it is in a degraded state. As a result it should be identified in Table 15.1

Table 15.2: Waterbodies identified through monitoring as being at risk of degradation.

Rivers
Cullens Creek
Kaituna River
Kenepuru River
Lower Pelorus River (downstream of the Rai River)
Lower Wairau River from SH1 bridge to the sea
Mill Stream
Opouri River
Rai River
Spring Creek
Waitohi River

Issue 15C – The mauri of wai (water) has been degraded due to the lack of understanding ~~about its spiritual significance~~and control of the impacts of different activities and uses.

Mauri is the term used by Marlborough's tangata whenua iwi to describe the cultural concept that all natural resources have a lifeforce. This lifeforce (called wairua) is derived from the physical attributes of the resource as well as the spiritual association iwi have with natural resources. Water is considered to be particularly significant to iwi in this regard as it sustains all life. Papā-tū-ā-nuku (Mother Earth) supports all people, flora and fauna, and waterbodies represent the blood vessels that supply nourishment to her, and through her, to all living things.

Marlborough's tangata whenua iwi feel that there is a lack of understanding in the community and by decision makers that water has wairua. It is their view that land and water are therefore used and managed in ways that do not recognise the spiritual significance of the resource. As a result, the point and non-point source discharge of contaminants to fresh and coastal water have adversely affected the mauri of water. Of particular concern is the impact of degraded water quality on the ability of each iwi to support traditional uses and values. Given the whakapapa link between Māori and water, waterbodies with poor or deteriorated quality are therefore a reflection of the health of the tangata whenua. Marlborough's tangata whenua iwi wish to avoid making any waterbody waimate (where water quality becomes so degraded that it loses its mauri).

Comment [N2]: Te mana o te wai does not only capture spiritual significance but the health, vitality and intrinsic value of the waterbody itself. It is not only a lack of understanding of the spiritual significance of the term te mana o te wai that has resulted in degradation but a lack of understanding and control of water quality stressors. As worded the issue is too narrow. It does not actually identify the problem.

Natural and human use values

[RPS, R, C]

Objective 15.1a – Maintain and where necessary enhance water quality in Marlborough's rivers, lakes, wetlands, aquifers and coastal waters, so that:

(a) Water quality limits/targets are met.

~~(a)~~(b) the mauri of wai is protected;

~~(b)~~(c) ~~water quality at beaches is suitable for contact recreation~~water quality of Marlborough's beaches, lakes, rivers and streams is suitable for primary contact recreation and swimming;

~~(c)~~(d) people can use the coast, rivers, lakes and wetlands for food gathering, cultural, commercial and other purposes;

~~(d)~~(e) groundwater quality is suitable for drinking;

~~(e)~~(f) the quality of surface water utilised for community drinking water supply remains suitable for drinking after existing treatment; and

~~(f)~~(g) water quality across water body types ~~coastal waters~~ supports healthy ecosystems.

Comment [N3]: The objective should identify a goal of achieving quality limits and targets. This provides the trigger for the following policies.

The objective should specify which level of 'contact' recreation is intended. It should set a goal of primary contact recreation or swimmability. This is consistent with the current trajectory of national policy. Swimmability should not be limited to beaches. It should apply across water body types.

In accordance with s5, s30 and s31 RMA and the NZCPS and NPSFM, MDC must work to achieve water quality across all water body types that supports healthy ecosystems.

Marlborough's coastal waters, rivers, lakes, wetlands and aquifers contain a diverse range of natural and human use values and are used extensively by the community. The existing water quality in the majority of our waterbodies is sufficient to support these values, but it is important that no degradation of water quality is allowed to occur. In addition to the national values addressed through Objectives 15.1b to 15.1e, the uses and values identified in (a) to (f) of the Objective 15.1a are the most susceptible to water quality degradation and are therefore appropriate water quality outcomes. Providing for these uses and values will, by default, also provide for other uses and values.

Where water quality is no longer sufficient to sustain the values in (a) to (f), the objective identifies that water quality should be enhanced with the ultimate aim of restoring the uses and values that were once supported by these waterbodies. Positive trends have already been shown since the MRPS became operative, with a reduction in the number of point source discharges to water and remaining point source discharges operating with an improved level of treatment. The anticipated environmental results indicate that any enhancement should occur during the life of the MEP.

It is acknowledged that there are 'natural' sources of water contamination and that little can be done to mitigate the subsequent adverse effects of this contamination. However, it is important to ensure that our activities do not worsen this situation.

This objective ensures that the Council's responsibilities are fulfilled in terms of maintaining and enhancing the quality of the environment and safeguarding the life-supporting capacity of water.

Te Hauora o te Wai/the health and mauri of water

[RPS, R]

Objective 15.1b – Maintain or enhance freshwater water quality in each Freshwater Management Unit so that the annual median nitrate concentration is <1 milligram nitrate-nitrogen per litre and the annual 95th percentile concentration is <1.5 milligrams nitrate-nitrogen per litre, as measured by the Council's State of the Environment monitoring programme.

The NPSFM identifies ecosystem health as a compulsory national value of freshwater. Under the NPSFM for rivers, nitrate concentrations are determined to be an attribute of ecosystem health. The majority of Marlborough's rivers that are monitored have an attribute state of "A" for nitrate and the community has a strong desire to maintain or enhance Marlborough's existing water quality. This is also the aim of Objective A2 of the NPSFM. For this reason, and having considered the matters set out in (f) of Policy CA2 of the NPSFM, the objective is to maintain an attribute state of A for nitrate in each FMU. Where water quality in the FMU does not currently meet an attribute state of A, the objective is to enhance water quality to meet this state. The numeric attribute states for A are specified in Objective 15.1b. The FMUs relevant to this objective are in Freshwater Management Unit - Map 5.

The process set in Policy CA2 of the NPSFW has been used to formulate this objective.

[RPS, R]

Objective 15.1c – Maintain freshwater water quality in each Freshwater Management Unit so that the annual median ammonia concentration is <0.03 milligrams ammoniacal nitrogen per litre and the annual maximum concentration is <0.05 milligrams ammoniacal nitrogen per litre, as measured by the Council's State of the Environment monitoring programme.

The NPSFM identifies ecosystem health as a compulsory national value of freshwater. Ammonia concentrations are determined to be an attribute of ecosystem health under the NPSFM for rivers. All of Marlborough's rivers that are monitored have an attribute state of "A" for ammonia. The community has a strong desire to maintain or enhance Marlborough's existing water quality and Objective A2 of the NPSFM requires this to occur. For this reason, and having considered the matters set out in (f) of Policy CA2 of the NPSFM, the objective is to maintain an attribute state of A for ammonia in each FMU. The numeric attribute states for A are specified in Objective 15.1c. The FMUs relevant to this objective are in Freshwater Management Unit - Map 5.

The process set in Policy CA2 of the NPSFM has been used to formulate this objective.

Te Hauora o te Tangata/the health and mauri of the people

[RPS, R]

Objective 15.1d – Maintain or enhance freshwater water quality in each Freshwater Management Unit so that the annual median *E. coli* level is <260 per 100 ml, as measured by the Council's State of the Environment monitoring programme.

The NPSFM identifies human heath for recreation as a national value of freshwater and secondary contact recreation as a compulsory national value of freshwater. Secondary contact recreation is activity that involves occasional immersion and some ingestion of water, such as boating or wading. The NPSFM has determined that *Escheria coli* (*E. coli*) bacteria are to be an attribute of the suitability of the water for contact recreation. The majority of Marlborough's rivers that are monitored have an attribute state of "A" for secondary contact recreation. The community

Comment [N4]: Objectives should also be set relating to limits for Phosphorous and sediment. Both are significant stressors on water bodies.

A dual nutrient approach controlling both nitrogen and phosphorous is necessary to control periphyton growth.

Sediment smothers in-water habitats with a negative flow on effect on overall ecological health.

Comment [N5]: Nitrogen should also be measured and controlled using DIN limits. The objective should be amended to require the level of dissolved inorganic nitrogen to be set at 0.444mg/l as a more appropriate measure of ecosystem health.

has a strong desire to maintain or enhance Marlborough's existing water quality and Objective A2 of the NPSFM requires this to occur. For this reason, and having considered the matters set out in (f) of Policy CA2 of the NPSFM, the aim is to maintain an attribute state of A for secondary contact recreation in each FMU. Where water quality in the FMU does not currently meet an attribute state of A, the aim is to enhance water quality to meet this state. The numeric attribute states for A are specified in Objective 15.1d. The FMUs relevant to this objective are in Freshwater Management Unit - Map 5.

The process set in Policy CA2 of the NPSFM has been used to formulate this objective.

[RPS, R]

Objective 15.1e – Maintain or enhance freshwater water quality in waterbodies valued for primary contact recreation so that the 95th percentile *E coli* level is <540 per 100 ml, as measured by the Council's State of the Environment monitoring programme.

The NPSFM identifies human heath for recreation as a national value of freshwater. *E. coli* bacteria are determined to be an attribute of the suitability of the water for contact recreation under the NPSFM. Some of Marlborough's rivers, or specific sites in those rivers, are valued by the community for swimming. (These values of Marlborough's rivers are identified in Appendix 5 of the MEP.) The majority of these rivers/sites have an attribute state of "B" for primary contact recreation. The community has a strong desire to maintain or enhance Marlborough's existing water quality and Objective A2 of the NPSFM requires this to occur. For this reason, and having considered the matters set out in (f) of Policy CA2 of the NPSFM, the aim is to maintain an attribute state of B for these rivers. Where water quality in the river does not currently meet an attribute state of B and it is reasonable to expect swimming to occur in the river, the aim is to enhance water quality to meet this state. The numeric attribute states for B are specified in Objective 15.1e. The FMUs relevant to this objective are in Freshwater Management Unit – Map 5.

The process set in Policy CA2 of the NPSFM has been used to formulate this objective.

All of the following policies collectively seek to achieve Objectives 15.1a to 15.1e.

Management purpose

[RPS, R, C]

Policy 15.1.1 – As a minimum, the quality of freshwater and coastal waters will be managed so that they are suitable for the following purposes:

(a) Coastal waters: protection of marine ecosystems; ~~potential for~~primary contact recreation (swimming) and food gathering/marine farming; and for cultural and aesthetic purposes;

(b) Rivers and lakes: protection of aquatic ecosystems; ~~potential for~~primary contact recreation (swimming); community water supply (where water is already taken for this purpose); and for cultural and aesthetic purposes;

(c) Groundwater: drinking water supply; and

(d) Wetlands: protection of aquatic ecosystems and the potential for food gathering.

Comment [N6]: As above – the PMEP should provide for primary contact recreation.

This policy establishes a minimum expectation of water quality in Marlborough's rivers, lakes, wetlands, aquifers and coastal waters. The policy will be primarily implemented through the application of water quality classifications, against which the impact of point source discharges on water quality can be assessed in the preparation of permitted activity rules and the consideration of resource consent applications. The use of "potential" in the criteria reflects a community expectation that contact recreation and/or food gathering should always be able to be undertaken

safely in coastal waters, rivers, lakes and wetlands. This policy assists to give effect to Policy A1, CA2 and D1 of the NPSFM and Policy 8 of the New Zealand Coastal Policy Statement 2010 (NZCPS).

[RPS, R, C]

Policy 15.1.2 – Apply water quality classifications (and water quality standards) to all surface water, groundwater and coastal water resources, which reflect:

(a) the management purposes specified in Policy 15.1.1; and

(b) other uses and values supported by the waterbody or coastal waters; or

(c) where water quality has already been degraded, the uses and values that are to be restored.

Comment [N7]: The policy is not clear. It needs to be amended to specify:
a.The difference and relationship between quality classifications and standards.
b.The level and which standards will be applied: water resource unit, FMU etc.

Water quality classifications will be applied through the MEP to all water and coastal waters. The classifications will, as a minimum, reflect the management purposes set out in Policy 15.1.1. However, particular waterbodies and coastal waters may support other natural and human use values and it is appropriate for these values to be reflected in any classification. This means that many waterbodies and coastal waters will have multiple classifications. For those waterbodies or coastal water experiencing degraded water quality, the classifications will reflect the natural and human use values that are to be restored. Water quality standards will apply to each classification.

The classifications and standards will be described in a manner consistent with the Third Schedule of the RMA, although the standards may exceed those in the Third Schedule. Classifications may include NS (natural state), AE (aquatic ecosystem), F (fisheries), FS (fish spawning), CR (contact recreation), SG (shellfish gathering), A (aesthetic), WS (water supply), I (irrigation), IA (industrial abstraction) and C (cultural).

This policy assists to give effect to Policy A1 and D1 of the NPSFM.

[RPS, R]

Policy 15.1.3 – To investigate the capacity of fresh waterbodies to receive contaminants from all sources, having regard to the management purposes established by Policy 15.1.1 in order to establish cumulative contaminant limits by 2024.

Policy A1 of the NPSFM requires the Council to set water quality limits for all waterbodies. "Limit" is defined in the NPSFM as "…*the maximum amount of resource use available, which allows a freshwater objective to be me*t" and includes cumulative limits for contaminants. Although the provisions of the MEP establish water quality standards that are to be complied with in the event of the point source discharge of contaminants, these are not cumulative limits.

Comment [N8]: There are already a number of degraded water bodies in Marlborough and also many at high risk of becoming degraded. The PMEP should identify and include interim cumulative contaminant limits set a precautionary level to achieve ecosystem health, to ensure that contaminants are appropriately managed in the interregnum between instigation of the 2012 programme and its completion. The fact that limits can "constrain land use" is irrelevant. MDC cannot postpone its function to safeguard ecosystem health when it is known that many waterbodies are degraded and what the activities contributing to that degradation area.

The establishment of cumulative contaminant limits is a complex task. It requires a good understanding of the relationship between land use and water quality. That relationship is influenced by the nature of the contaminants produced by different land uses, the way in which those contaminants pass through the environment and the susceptibility of natural and human use values supported by waterbodies to total contaminant loads.

At the time of notification of the MEP, the Council did not hold the resource use and environmental data required to set the cumulative contaminant limits. For this reason, the Council adopted a programme of progressive implementation that was publicly notified on 8 November 2012. That programme sets a date of 2024 as a target for implementing cumulative contaminant limits.

This policy establishes a commitment to commence collecting and analysing resource use and environmental data required to establish cumulative contaminant limits. The use of limits could constrain the land uses that could occur in a catchment (existing and potential) or at least the way in which those land uses are managed. For these reasons, care needs to be exercised in establishing cumulative contaminant limits in respect of water quality. It is also important that the

limits reflect the management purposes established by Policy 15.1.1, otherwise Objectives 15.1a to 15.1e will not be achieved. The cumulative limits will be added to the MEP by plan change or upon review.

This policy assists to give effect to Policy A1 of the NPSFM and the Council's Programme of Staged Implementation adopted under the NPSFM.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[RPS, R, C]

15.M.1 Identification of uses and values supported by freshwater, groundwater or coastal water resources

To identify, on an ongoing basis, the uses and values supported by specific rivers, lakes, wetlands, aquifers and coastal waters. These values, including the spiritual and cultural values of Marlborough's tangata whenua iwi, will be identified in the MEP.

[R, C]

15.M.2 Water quality classifications

To establish water quality classifications for all waterbodies in the MEP that reflect the uses and values supported by the waterbody or that could be supported by the waterbody if water quality was enhanced. Classifications may include NS, AE, F, FS, CR, SG, A, WS and C. (Refer to Policy 15.1.2 for explanation of the classifications.)

[RPS, R]

15.M.3 Investigations

To undertake catchment-specific research to establish the capacity of fresh waterbodies to assimilate total contaminant loads from within each catchment. The objectives and management purpose established for the waterbody and the uses and values supported by the waterbody will both assist to determine the sensitivity of the waterbody to increases in contaminant loads. Given their association with rural land uses and Marlborough's history of primary production, research into nutrients is a priority. It may also be necessary to prioritise heavy metals in urban catchments, given the prevalence of such metals in urban stormwater, as well as sediment loads in rivers flowing into sensitive receiving environments, such as the enclosed coastal waters of the Marlborough Sounds.

[RPS, R]

15.M.4 Monitoring plan

Building on the Council's existing State of the Environment monitoring programme, develop a plan that sets out the methods for monitoring progress toward the achievement of Objectives 15.1a to 15.1e.

Enhancing water quality

[RPS, R]

Policy 15.1.4 – Take action to enhance water quality in the following rivers to meet Objective 15.1b within ten years of the Marlborough Environment Plan becoming operative:

(a) Mill Creek; and

(b) Murphys Creek.

The rivers identified in this policy do not currently meet Objective 15.1b. In other words, the water quality in these rivers does not meet an attribute state of A for nitrate under the NPSFM. Water

quality in these rivers can be enhanced, although it could take a considerable period of time before a significant improvement is achieved. The policy sets a timeframe of ten years from the date this policy becomes operative to achieve the enhancement.

A catchment-specific plan for enhancing water quality will be developed for each river. The methods to be used to enhance water quality will be determined following an assessment of the cause and effect of excessive nitrate levels. The methods contained in this chapter may be appropriate to use. Where this is the case, priority for the implementation of the methods will be given to the identified rivers.

The potential role of cumulative contaminant limits in enhancing water quality will be considered through the process of developing the plan.

This policy gives effect to Policy A2 of the NPSFM.

[RPS, R]

Policy 15.1.5 – Take action to enhance water quality in the following rivers to meet Objective 15.1d within ten years of the Marlborough Environment Plan becoming operative:

(a) Are Are Creek;

(b) Cullens Creek;

(c) Doctors Creek; and

(d) Kaituna River.

The rivers identified in this policy do not currently meet Objective 15.1d. In other words, the water quality in those rivers does not meet an attribute state of A for secondary contact recreation under the NPSFM. Water quality in these rivers can be enhanced, although it could take a considerable period of time before a significant improvement is achieved. The policy sets a timeframe of ten years from the date this policy becomes operative to achieve the enhancement.

A catchment-specific plan for enhancing water quality will be developed for each river. The methods to be used to enhance water quality will be determined following an assessment of the cause and effect of excessive *E.coli* levels. The methods contained in this chapter may be appropriate to use. Where this is the case, priority for the implementation of the methods will be given to the identified rivers.

The potential role of cumulative contaminant limits in enhancing water quality will be considered through the process of developing the plan.

This policy gives effect to Policy A2 of the NPSFM.

[RPS, R]

Policy 15.1.6 – Take action to enhance water quality in the following rivers to meet Objective 15.1e within ten years of the Marlborough Environment Plan becoming operative:

(a) Taylor River;

(b) Rai River; and

(c) Waihopai River.

The rivers identified in this policy do not currently meet Objective 15.1e. In other words, the water quality does not meet an attribute state of B for primary contact recreation. Water quality in these rivers can be enhanced, although it could take a considerable period of time before a significant improvement is achieved. The policy sets a timeframe of ten years from the date this policy becomes operative to achieve the enhancement.

A catchment-specific plan for enhancing water quality will be developed for each river. The methods to be used to enhance water quality will be determined following an assessment of the

cause and effect of excessive faecal bacteria levels. The methods contained in this chapter may be appropriate to use. Where this is the case, priority for the implementation of the methods will be given to the identified rivers.

The potential role of cumulative contaminant limits in enhancing water quality will be considered through the process of developing the plan.

This policy gives effect to Policy A2 of the NPSFM.

[RPS, R]

Policy 15.1.7 – Take action to enhance water quality in the rivers identified in Tables 15.1 and 15.2 so that water quality is suitable for the purposes specified in Policy 15.1.1 within ten years of the Marlborough Environment Plan becoming operative.

The rivers with water quality known not to meet the management purposes established by Policy 15.1.1 are identified in Table 15.1. Point source and non-point source discharges have degraded water quality to the extent that it is no longer sufficient to support natural and human use values. Another group of rivers, identified in Table 15.2, has fair water quality, but there is a risk that it may become insufficient to meet the management purposes established by Policy 15.1.1 if the water quality is further degraded. Water quality in these rivers can be enhanced, although it could take a considerable period of time before a significant improvement is achieved.

A catchment-specific plan for enhancing water quality will be developed for each river included in Tables 15.1 and 15.2. The methods to be used to enhance water quality will be determined following an assessment of the cause and effect of degraded water quality and will be clearly identified within the plan. The methods contained in this chapter may be appropriate to use. Where this is the case, priority for the implementation of the methods will be given to those rivers identified in Tables 15.1 and 15.2.

The quality of water in some rivers and coastal waters is unknown as they have not been monitored. If the results of future monitoring establish that there are other waterbodies with degraded water quality, then these can be added to Table 15.1 through a change to the MEP.

This policy gives effect to Policy A2 of the NPSFM.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[RPS, R]

15.M.5 Catchment Enhancement Plans

Catchment Enhancement Plans will be developed as a priority for rivers that have degraded water quality, as identified in Policies 15.1.4 to 15.1.7. The methods to be used to enhance water quality will be determined following an assessment of the cause and effect of degraded water quality and will be clearly identified within the Plans. It may take time to establish the nature of the cause, which may delay the completion of the Plans. Other methods may be used in the interim to reduce the effects of non-point source discharges on water quality. Each Catchment Enhancement Plan will be developed in consultation with resource users in the catchment and other affected parties.

Management of point source discharges to water

[RPS, R, C]

Policy 15.1.8 – Encourage the discharge of contaminants to land in preference to water where its characteristics will attenuate contaminant discharge.

The combination of favourable soil properties in many parts of Marlborough, along with Marlborough's dry climate, make the discharge of contaminants to land a viable option.

Comment [N9]: Discharge to land should only be encouraged where the land characteristics support attenuation. Contaminants discharged onto land with high loss rates will still run directly into waterways. This should be identified in the policy itself not just the explanation.

Discharging contaminants to land avoids the equivalent discharge to freshwater or coastal waters and therefore assists to maintain and enhance water quality in our rivers, lakes, wetlands, aquifers and coastal waters. For this reason, the policy states a preference for discharges to land. However, it is also acknowledged that there can be limitations to the capacity of soils to treat and/or absorb contaminants. Encouraging discharges to land where these limits would be exceeded may give rise to unsustainable outcomes. Chapter 16 - Waste contains provisions for managing the adverse effects of discharging contaminants to land.

[R, C]

Policy 15.1.9 – Enable point source discharge of contaminants or water to water where the discharge will not result:

(a) in any of the following adverse effects beyond the zone of reasonable mixing:

(i) the production of conspicuous oil or grease films, scums, foams or floatable or suspended materials;

(ii) any conspicuous change in the colour or significant decrease in the clarity of the receiving waters;

(iii) the rendering of freshwater unsuitable for consumption by farm animals;

(iv) any significant adverse effect on the growth, reproduction or movement of aquatic life; or

(b) in the flooding of or damage to another person's property.

~~(b)~~(c) The degradation of ecosystem health in combination with all other discharges.

Comment [N10]: This policy should include a link to management of all discharges. This ensures an integrated approach is taken to achieving water quality outcomes and staying within limits.

The purpose of this policy is to set criteria for authorising discharges to surface waterbodies or coastal waters as permitted activities. In the absence of a regional rule, these discharges would require a discharge permit. These discharges, provided they meet certain conditions, should not cause any of the adverse effects identified in this policy or Section 70 of the RMA. The matters specified in (a) are the statutory tests for permitted activity rules from Section 70 of the RMA. There is little justification for requiring a discharge permit for an activity that has little or no adverse effects. If state of the environment monitoring indicates that the cumulative effects of permitted activities are adversely affecting water quality, then it is appropriate to review the status of those rules. (Refer to Policy 15.1.14 for the criteria for a zone of reasonable mixing.)

[RPS, R, C]

Policy 15.1.10 – Require any applicant applying for a discharge permit that proposes the discharge of contaminants to water to consider all potential receiving environments and adopt the best practicable option, having regard to:

(a) the nature of the contaminants;

~~(a)~~(b) the contribution of those contaminants to the overall load limit.

Comment [N11]: The contribution of a activity to the overall load should be a factor in determining grant of a discharge permit or permit conditions.

~~(b)~~(c) the relative sensitivity of the receiving environment;

~~(c)~~(d) the financial implications and effects on the environment of each option when compared with the other options; and

~~(d)~~(e) the current state of technical knowledge and the likelihood that each option can be successfully applied.

Reflecting the preference for discharges to land expressed in Policy 15.1.8, it is important that any applicant applying for a discharge permit to water has thoroughly considered all potential land or water receiving environments. The applicant will have to demonstrate that the option of discharging to water is the best practicable option given the alternative receiving environments available. Even if the discharge of contaminants to water is the best practicable option, it does not necessarily mean that the discharge permit application will be granted; the remainder of the policies will also be relevant to determining the application. In particular, it is expected that discharges to water will be treated to the highest practicable levels to meet the management purposes set out in Policy 15.1.1.

This policy assists to give effect to Policy A3 of the NPSFM and Policy 23 of the NZCPS.

[RPS, R, C]

Policy 15.1.11 – When considering any discharge permit application for the discharge of contaminants to water, regard will be had to:

(a) the factors in policy 15.1.10.

(b) **the potential adverse effects of the discharge on spiritual and cultural values of Marlborough's tangata whenua iwi;**

~~(a)~~(c) The potential for adverse effects on ecosystem health including in combination with other permitted discharges.

~~(b)~~(d) **the extent to which contaminants present in the discharge have been removed or reduced through treatment;** ~~and~~

~~(c)~~(e) **whether the discharge is of a temporary or short term nature and/or whether the discharge is associated with necessary maintenance work for any regionally significant infrastructure.**

In order to protect the mauri of nga wai, it is essential to have regard to the potential adverse effects on the spiritual and cultural values of Marlborough's tangata whenua iwi when considering any discharge permit application for the discharge of contaminants to water. The relevant iwi will be those who are kaitiaki for the receiving waters or those who have a statutory acknowledgement with respect to the waterbody. The position of iwi will inform the decision making process about the resources or values of significance to tangata whenua, the potential adverse effects of the discharge on these resources and values, and appropriate measures necessary to avoid, remedy or mitigate any adverse effects. The position of iwi would preferably be established by the resource consent applicant in consultation with the iwi as part of the process of assessing environmental effects. The outcome of this consultation would then be reflected in the subsequent resource consent application.

The adverse effects of any discharge on water quality can depend on the level of contaminants present in the discharge. It is therefore appropriate that decision makers have regard to whether the discharge is treated and the extent of treatment. They can use this information to determine whether the applicant has reduced the level of contaminants sufficiently in the context of the actual or potential adverse effects. It is also important that decision makers have regard to any practical or technological limitations to further treatment. The policy assists to avoid and mitigate the adverse effects of point source discharges on water quality by encouraging dischargers to minimise the level of contaminants present in discharges to water.

The anticipated duration of the discharge and the purpose for which it is undertaken are relevant to the consideration of the adverse effects of any discharge requiring a permit. This is particularly the case for discharges that do not comply with the water quality classification standards set for the receiving waters. In such situations, a discharge undertaken for a short or temporary period(s) may still be appropriate, depending on the significance of any adverse effects that result from the non-compliance. Similarly, discharges associated with the maintenance of regionally significant infrastructure may be appropriate when the importance of the ongoing function of the infrastructure is weighed against the adverse effects of non-compliance.

This policy assists to give effect to Policy D1 of the NPSFM and Policy 23 of the NZCPS.

[RPS, R, C]

Policy 15.1.12 – After considering Policies 15.1.10 and 15.1.11, approve discharge permit applications to discharge contaminants into water only where:

(a) **the discharge in combination with all other discharges complies with the water quality classification standards set for the waterbody, after reasonable mixing; or**

(b) in FMUs where a contaminant(s) is over-allocated:

~~(a)~~ (i) only in situations where the discharge is associated with an existing use; and

Comment [N12]: There should be a link between this policy and the factors in Policy 15.1.10 which also go to the acceptability of the discharge. It should also specifically identifying the potential for adverse effects on ecosystem health of the activity itself and in combination with other activities. This is necessary to ensure an integrated approach is applied.

Comment [N13]: For water quality limits to be achieved the PMEP should not provide for grant of a discharge permit unless it can be sure that the limits will be respected. The addition of "only" into the policy makes that clear.

The policy needs to clarify that the application itself must not only comply with quality standards but the application in combination with all other discharges.

In over-allocated FMUs further permits should not be allowed until contaminant levels are brought below the limit. Only then will there be head room for new activities and uses. Any discharge permit for existing in over-allocated catchments should be required to reduce discharge amounts over the term of the permit.

(ii) how discharge of that contaminant will be progressively reduced over the term of the permit.

~~(b) in the case of non-compliance with the water quality classification standards set for the waterbody:~~

~~(i) the consent holder for an existing discharge can demonstrate a reduction in the concentration of contaminants and a commitment to a staged approach for achieving the water quality classification standards within a period of no longer than five years from the date the consent is granted; and~~

~~(ii) the degree of non-compliance will not give rise to significant adverse effects.~~

If discharge to water is the best practicable option, compliance with the specified water quality classification standards will ensure that the quality of water is sufficient to sustain the natural and human values currently supported by the waterbody or coastal waters. Any point source discharge requiring a discharge permit will generally only be approved if the applicant has demonstrated that the effects of the discharge will comply with the specified water quality classification standards beyond a zone of reasonable mixing. There are limited circumstances where non-compliance with water quality classification standards will result in the approval of the discharge permit application; these circumstances are identified in (b) of the policy.

In some circumstances, it will be necessary to take into account other influences on water quality upstream of the discharge point in applying this policy. For example, the receiving waters may already be in a state in which means the water quality standards are not being met. This is reflected in the ability to take into account the degree of additional adverse effect created by the discharge in (b)(ii).

There is an expectation that the effects of the discharge on the quality of the receiving waters will be monitored to establish compliance with the water quality classifications standards over the life of the discharge permit. Compliance will be established by sampling/measuring relevant water quality parameters beyond the zone of reasonable mixing. In rivers, the parameters should also be measured upstream of the zone of reasonable mixing to establish background water quality.

This policy assists to give effect to Policy A3 of the NPSFM and Policy 23 of the NZCPS. Policies 15.1.14 and 15.1.15 provide guidance on determining the size of an appropriate mixing zone.

[R]

Policy 15.1.13 – Where it is proposed to discharge contaminants to water upstream of any registered community drinking water supply providing for more than 501 people, have regard to the effect of the proposed discharge on the quality of water within the river and its subsequent suitability for human consumption after existing treatment.

The NES for Sources of Human Drinking Water introduced requirements for the consideration of discharge permit applications upstream of abstraction points for community water supplies registered in accordance with Section 69J of the Health Act 1956. Regulations 7 and 8 of the NES specify circumstances when resource consent must not be granted. This policy compliments the regulations by ensuring regard is had to the effect of the proposed discharge on the suitability of the water for human consumption following existing treatment. Regulations 7 and 8 of the NES must still be used to determine whether any application should be granted.

[R, C]

Policy 15.1.14 – Except as provided for by Policy 15.1.15, apply a zone of reasonable mixing to the receiving waters for all point source discharges to water. The zone shall not exceed (as measured from the discharge point):

(a) For rivers and streams, the lesser of:

(i) a distance downstream equal to seven times the width of the river (allowing for low flows); or

(ii) 200 metres downstream.

(b) For rivers subject to tidal influence at the point of discharge:

(i) as for rivers in 15.1.14(a), plus a distance upstream equal to half of that allowed downstream.

(c) For lakes and wetlands (with open standing water):

(i) within a radius of 100 metres of the discharge point.

(d) For coastal waters, limited to the extent necessary to achieve effective mixing, having regard to:

(i) the characteristics of the discharge, including the contaminant type, concentration and volume;

(ii) the coastal processes that exist at and near the point of discharge; and

(iii) the nature, sensitivity and use of the coastal waters.

Discharges of contaminants to water authorised under discharge permit must meet water quality classification standards set for the receiving waters after "reasonable mixing". Reasonable mixing is the process of wastewater dispersing through the receiving waters and this occurs in a mixing zone, an accepted area of non-compliance. The policy establishes how to size the mixing zone. In the case of discharges into freshwater, a prescribed formula ensures a consistent and equitable approach. Such an approach is not possible for coastal water due to variation in the coastal environment caused by (among other things) tides and currents. Instead, the policy provides criteria for determining the size of an appropriate mixing zone.

This policy assists to give effect to Policy 23 of the NZCPS.

[R, C]

Policy 15.1.15 – With the exception of stormwater discharges, the water quality classification standards will be met at the point of discharge, where a discharge is:

(a) within one kilometre upstream of an intake for a registered drinking water supply from a river; or

(b) to a river where the receiving waters are to be maintained in a natural state; or

(c) within 500 metres of any marine farming activity in freshwater or coastal waters.

Some waterbodies and coastal waters are particularly sensitive to the point source discharge of contaminants. In these circumstances, a zone of reasonable mixing will generally be incompatible with the values supported by the waterbody or coastal waters. The policy identifies those circumstances where a zone of non-compliance should not be established.

This policy assists to give effect to Policy 23 of the NZCPS.

[R, C]

Policy 15.1.16 – The duration of any new discharge permit will be either:

(a) Up to a maximum of 15 years for discharges into waterbodies or coastal waters where the discharge will comply with water quality classification standards for the waterbody or coastal waters; or

(b) up to ten years for discharges into rivers identified in Policies 15.1.4, 15.1.5, 15.1.6 or 15.1.7 (where the water quality is to be enhanced) and the discharge will comply with water quality classification standards for the waterbody or coastal waters; or

(c) no more than five years where the existing discharge will not comply with water quality classification standards for the waterbody or coastal waters.

With the exception of regionally significant infrastructure, no discharge permit will be granted subsequent to the one granted under (c), if the discharge still does not meet the water quality classification standards for the waterbody or coastal waters.

To provide greater certainty to resource users, the policy identifies the appropriate duration for discharge permit applications if they are to be granted. The duration varies depending on compliance with water quality classification standards and the state of water quality in the waterbody or coastal waters. Longer durations are warranted where compliance with water quality classification standards will be achieved and there is currently no water quality issue, while

short term consents will occur where water quality classification standards cannot be met. In the latter case, Policy 15.1.12 identifies that consent holders only have five years to achieve compliance with water quality classification standards, hence the requirement in (c) above.

This policy gives effect to Policy A3 of the NPSFM.

[R, C]

Policy 15.1.17 – Review, where appropriate, the conditions of existing discharge permits to impose new conditions requiring the monitoring of the discharge effects to determine compliance with the water classification standards.

It may not be known whether existing discharges comply with the water quality classification standards where there is no requirement in the conditions of consent to monitor effects relative to the standards. As this information will be critical to the consideration of any new discharge permit applications to continue discharging the contaminants, the policy can be used to require the consent holder to commence monitoring the effects of the discharge. This will be achieved through Section 128(b), reviews of discharge permit conditions.

This policy gives effect to Policy A3 of the NPSFM.

[R, C]

Policy 15.1.18 – Avoid the discharge of untreated human sewage to waterbodies or coastal waters.

The discharge of untreated human sewage to water has the potential for significant adverse effects on the life supporting capacity of freshwater and marine ecosystems as well as the recreational and commercial use of the waters. Such discharges are also culturally offensive to Marlborough's tangata whenua iwi and the wider community. For these reasons, it is appropriate to avoid any discharge of untreated human sewage to waterbodies or coastal waters through prohibited activity rules.

This policy gives effect to Policy 23 of the NZCPS.

[C]

Policy 15.1.19 – Progressively work toward eliminating the discharge of human sewage to coastal waters in the Marlborough Sounds, with the exception of regionally significant infrastructure.

The Marlborough Sounds are one of the District's significant natural resources and as a predominantly coastal environment, the quality of coastal waters is paramount to their ongoing use and enjoyment by the community and visitors. There is therefore a strong community desire to eliminate the discharge of all human sewage to coastal waters in the Marlborough Sounds. A policy of progressively eliminating discharges over time recognises that those discharging human sewage will need time to find alternative receiving environments.

An exception has been made for regionally significant infrastructure in recognition of the fact that the discharges from Council operated, reticulated community sewerage systems act to maintain public health standards in the towns of Picton and Havelock. However, the remainder of the policies in this chapter do apply to the discharges. This means that the Council will have to consider alternative receiving environments when new resource consents are sought for these existing discharges and if discharge to coastal water is the best practicable option, the effects of the discharge will still be considered in accordance with Policy 15.1.12.

The Resource Management (Marine Pollution) Regulations 1998 control the discharge of human sewage from ships into coastal waters. Policy 15.1.20 provides further direction on the discharge of untreated human sewage from ships in the Marlborough Sounds.

This policy assists to give effect to Policy 23 of the NZCPS.

[C]

Policy 15.1.20 – Except for Grade A or Grade B treated sewage, control the discharge of human sewage from ships in the Marlborough Sounds.

The Marlborough Sounds are a popular destination for local and visiting boaties. Larger ships, especially those with live-on facilities, have holding tanks for human sewage. The discharge of human sewage from ships is regulated by the Resource Management (Marine Pollution) Regulations 1998. However, the combination of the enclosed nature of the Marlborough Sounds and the prevalence of marine farming throughout this area mean that there are limited opportunities to discharge sewage to coastal waters in a manner that complies with the Regulations. In addition, in many locations there is limited movement of water that would provide for mixing of the contaminants with the receiving waters.

The continuation of discharging human sewage into such valued and significant enclosed waters has been questioned by the community. The Regulations do allow for more stringent rules than those prescribed in the Regulations to be included in a regional coastal plan in certain circumstances. The policy signals that the Council is to utilise this ability to manage the adverse effects potentially created by the discharge of untreated human sewage from ships.

This policy assists to give effect to Policy 23 of the NZCPS.

[R, C, D]

Policy 15.1.21 – Manage the adverse effects of urban stormwater discharges on water quality by applying management to activities within each urban stormwater catchment in order to reduce the potential for stormwater to become contaminated at source.

The Council does not regulate individual inputs into the Council's reticulated stormwater infrastructure, as these inputs do not constitute a discharge under the RMA. (The Council can exercise its enforcement powers when contaminants - as opposed to stormwater - are discharged into the stormwater infrastructure and subsequently contaminate a waterbody.) However, the discharge provisions of the MEP do apply where the collected stormwater is discharged into receiving waters. The volume of stormwater generated during rain events and the rate of discharge make treating stormwater prior to discharge difficult. For this reason, the policy emphasises that the Council will focus on managing the potential for stormwater to become contaminated at source before it enters the reticulated system.

Stormwater quality at the point of discharge reflects land use activities and land management practices within the catchment serviced by the stormwater infrastructure. A catchment approach to managing stormwater quality enables a focussed investigation of potential sources of contaminants within the catchment to be undertaken. The benefit is that the most appropriate and cost effective solutions can then be identified and implemented. It is expected that these actions will be set out and detailed in Stormwater Management Area Plans. The Plans will ensure that there is a co-ordinated and integrated approach to managing stormwater quality within each urban stormwater catchment and any adverse effects on receiving waters. Over time, the policy will reduce the contamination of stormwater from industrial, commercial and residential activities and assist to improve water quality in urban areas.

This policy assists to give effect to Policy 23 of the NZCPS.

[R, C]

Policy 15.1.22 – Recognise that the Taylor, Ōpaoa and Waitohi rivers, Waikawa Stream (and some of their tributaries) and coastal waters at Havelock, Picton and Waikawa will continue to receive urban stormwater for the foreseeable future and, with limited options to treat urban stormwater, may on an episodic basis experience reduced water quality to the extent that the management purposes in Policy 15.1.1 are not achieved.

The waterbodies listed in the policy have historically received stormwater from the towns of Blenheim, Havelock, Picton and Waikawa. Given the reliance of those towns on the stormwater systems, these waterbodies will continue to receive urban stormwater for the foreseeable future. Once collected, due to volume of runoff and peak flows there is limited ability to treat this

stormwater to reduce the level of contamination. This means that the Taylor, Ōpaoa and Waitohi rivers, Waikawa Stream (and relevant tributaries) and coastal waters will experience reduced water quality during and after rainfall events. Although there may be community concern at this outcome, it is important to recognise the role that these waterbodies play in enabling ongoing residential, commercial and industrial activity in each of the towns. Without the ability to discharge stormwater to these waterbodies, land utilised for these activities would be subject to surface flooding during rainfall events. However, efforts should still be made to reduce the level of stormwater contamination over time. Policy 15.1.21 identifies other initiatives that will be utilised in this regard.

[R]

Policy 15.1.23 – Avoid the discharge of animal effluent to fresh and coastal waterbodies and stock disturbance of river beds to the extent necessary to meet the management purposes established by Policy 15.1.1, by:

(a) preventing the direct discharge of collected animal effluent to water; and

(b) avoiding the access of intensively farmed stock to rivers.

Comment [N14]: Discharge of effluent into coastal waters should also be avoided. This is required to give effect to Policy 21 NZCPS.

Animal effluent can be discharged directly into rivers and wetlands through either the point source discharge of collected animal effluent (e.g. farm dairy effluent) or through stock access to waterbodies. At the date of notification of the MEP, there were no authorised discharges of animal effluent into water. This policy seeks to avoid the significant risk posed to surface water quality by discharges of collected animal effluent. This will be implemented through a prohibited activity rule.

Stock can also access rivers when grazing riparian margins. In such circumstances, it is likely that there will be a discharge of animal effluent to water and the river bed will be physically disturbed. The resulting increase in bacteria and turbidity in the receiving waters have the potential to reduce water quality. The adverse effects of casual access on water quality are dependent on a number of factors, including the type and density of stock. Intensively farmed stock such as dairy cattle, pigs, or cattle or deer grazed on irrigated pasture or breakfed on winter crops create a significant risk of adverse effects on water quality. For this reason, the policy seeks to avoid stock access where stock is farmed intensively.

Due to the practical difficulties in some situations of fencing stock out of waterbodies, particularly where stock are grazed extensively, the Council has also adopted an approach of using permitted activity rules for managing the adverse effects of stock access not covered by this policy. The permitted activity rules will require compliance with any relevant water quality standard set for the affected waterbody.

[R, C]

Policy 15.1.24 – Establish a response capability to deal with spills of hazardous substances that enter waterbodies or coastal waters.

In the event that hazardous substances are accidentally or deliberately released into the environment, it is important that there is the capability to contain the extent of the spill and subsequently clean-up the site. Several agencies are potentially involved in any spill event, including the Council, Fire Service, Police and (in the coastal marine area) Maritime Safety. An ad hoc response from each agency creates the potential for ineffective containment and for soil contamination to occur over a wider area than if the spill was effectively contained. It is important therefore that the actions of each agency in responding to a spill are co-ordinated. This is especially the case considering the risks posed by the volume of goods transported to and through Marlborough on the Cook Strait ferries.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[R, C]

15.M.6 Regional rules

Set appropriate water quality standards that reflect the physical, chemical and biological characteristics required to maintain the uses and values supported by the waterbody.

Apply regional rules to allow point source discharges to land (see Chapter 16 - Waste for further details).

Permitted activity rules will enable the discharge of contaminants or water to water where the discharge will not give rise to adverse effects on natural and human use values supported by the waterbody or coastal waters.

Apply regional rules to regulate and in some instances prohibit point source discharges to water. This will allow the management framework established by the MEP to be applied. Prohibitions apply to the discharge of human sewage from ships in the Marlborough Sounds, the discharge of untreated human sewage and the discharge of collected animal effluent from dairy sheds.

In the case of discharge of human sewage from ships, a prohibition will be placed on the activity six years from the date of notification of the MEP. It will not apply to the discharge of Grade A or Grade B treated sewage.

Apply regional rules to control the use of land in close proximity to rivers for stock grazing. This includes rules to control intensively-farmed stock from entering onto or crossing the bed of a lake or flowing river. A prohibition will be placed on this activity as from 9 June 2022.

Where resource consent is required for discharges to water, conditions may be imposed to ensure that the operator of any treatment system manages and maintains the system appropriately.

Review discharge permit conditions to ensure water quality standards apply to all discharges and that compliance with these standards is monitored.

[D]

15.M.8 Bylaw

Use bylaws to control the disposal of trade and industrial waste into the Council's reticulated sewerage system, especially the type and characteristics of the waste, to minimise the adverse effects of the subsequent discharge into water.

[R, C, D]

15.M.9 Stormwater Management Area Plans

The Council will investigate the nature, extent and sources of contamination of urban stormwater discharges and consider possible means of reducing contaminant levels. This will be achieved through the development and implementation of Stormwater Management Area Plans. These Plans will be developed progressively and implemented for each urban stormwater catchment. It is expected that Stormwater Management Area Plans will form the basis of discharge permit applications to continue discharging stormwater into water.

[C]

15.M.10 Community facilities

Facilitate the provision of further pump-out facilities for ships in the Marlborough Sounds in a manner that ensures that pump-out facilities are accessible for boaties throughout the Sounds.

[R, C]

15.M.11 Liaison

Liaise with iwi, Nelson Marlborough Fish and Game Council, Department of Conservation, water users and the community to determine the uses and values supported by rivers, lakes, wetlands, aquifers and coastal waters.

Liaise with Port Marlborough New Zealand Limited, the Department of Conservation and resort owners to establish accessible pump-out facilities for boaties and public toilets at strategic locations in the Marlborough Sounds.

Work with the Marine Farming Association and other organisations collecting coastal water quality information to establish a representative coastal water quality monitoring network, including the sharing of information.

[C]

15.M.12 Information

Provide educational material to boating clubs and boaties to inform them of the controls on discharges of human sewage from ships and on alternative methods of disposal.

Share coastal water quality monitoring information with the Marine Farming Association and Marlborough Sounds communities.

[R, C]

15.M.13 Cultural impact assessment

A cultural impact assessment is an assessment of the potential effects of an activity on resources and values of significance to tangata whenua. Such reports document iwi values within an area and provide appropriate measures to avoid, remedy or mitigate any adverse effects on those values. A report is prepared to document the assessment and can form part of the Assessment of Environmental Effects submitted as part of any discharge permit application. Given Policy 15.1.11, it would be preferable if applicants approached the iwi traditionally associated with the receiving waters (as recognised via statutory acknowledgement) for a cultural impact assessment as part of pre-lodgement consultation.

[R, C]

15.M.14 Codes of practice and industry guidelines

Advocate to industry groups that they, locally or nationally, prepare and/or adopt codes of practice or other guidelines (where not already in place) aimed at reducing the effects of discharges to water.

[R, C]

15.M.15 Spill Response Contingency Plan

A Spill Response Contingency Plan will be developed collaboratively by the Council, Fire Service, Police and (in the coastal marine area) Maritime Safety. The Plan will identify the methods to be used to contain and clean up any spill of hazardous substances, the role of each agency in implementing these methods, and communication between the agencies. In this way, the Plan will ensure that response actions are effective and the potential for soil contamination caused by spills is minimised.

Management of non-point source discharges

[RPS, R, C]

Policy 15.1.25 – Recognise that, ~~in many situations,~~ non-regulatory methods ~~will~~ may be an effective method of managing the adverse effects of non-point source discharges.

Non-point source discharges are diffuse in nature as they do not enter the environment at a discrete point. Most non-point source discharges are the result of run-off where rain water picks up contaminants such as sediment, nutrients, toxicants and pathogens from land. It is also possible for some of these contaminants to leach into underlying groundwater through infiltration. As such, any non-point source discharge (effectively contaminated runoff) is a consequence of particular land use activities.

The diffuse nature of non-point source discharges means that they are inherently more difficult to manage as there is no particular point such as an outfall to which treatment or management can be applied. For this reason, the main approach to addressing the adverse effects of non-point source discharges over the life of the MEP will be to work with landowners to improve land use practices to minimise the potential for run-off.

In time and as signalled in Policy 15.1.3, the Council will establish cumulative contaminant limits to assist with the effective management of the adverse effects of all discharges to freshwater within a catchment. These limits will be established as regional rules and will establish a maximum amount of resource use within a catchment for water quality outcomes.

[R, C]

Policy 15.1.26 – ~~Encourage,~~Require in close association with rural industry groups, the use of sustainable rural land management practices.

All of Marlborough's established rural land uses have industry groups to represent the interests of their members. The Council's focus on implementing non-regulatory methods will be to work with and through these established industry groups to co-operatively promote and encourage sustainable rural land use practices. The Council may also undertake joint investigations with rural industry groups to gain a better understanding of the impact of particular rural land use activities on water quality.

[R, C]

Policy 15.1.27 – Promote the retirement and planting of riparian margins in rural areas to intercept contaminated runoff ~~,~~ especially where water quality is degraded or at risk of degradation and requiring planting or riparian margins as a condition of consent where it is an effective management tool in intercepting contaminant run off, excluding stock, or preventing sediment loss. ~~,~~

Riparian margins are those areas of land adjoining surface waterbodies or coastal waters. The retirement of riparian margins from productive use creates a physical buffer between the effects of rural land uses and adjoining rivers, lakes, wetlands and coastal waters. This buffer reduces the potential for contaminated runoff to reach these waterbodies and coastal waters. On properties where stock is intensively grazed, riparian retirement may require fencing to prevent stock entry to the riparian margin. The effect of riparian retirement is enhanced when the retired margin is planted, as vegetation will intercept many contaminants present in runoff (e.g. nutrients and sediment). Tall riparian vegetation further improves water quality by reducing water temperature and algal growth. For these reasons, the Council will actively promote the retirement and planting of riparian margins as a sustainable rural land management practice. Note that Policy 8.2.11 of Chapter 8 - Indigenous Biodiversity promotes the planting of indigenous vegetation in riparian margins and other areas.

The positive effects of retiring and planting riparian margins will be greatest where the quality of water in rivers that flow through rural environments is degraded or at risk of degradation. These rivers are identified in Tables 15.1 and 15.2.

The Council operates and maintains an extensive drainage network on the Lower Wairau Plains that acts to reduce water table levels over what is now some of the most productive land in

Comment [N15]: As discussed above precautionary interim limits should be set until the 2012 programme is complete. Non-point source discharges should be included in the regime managing to these limits. Discharges from non-point sources can be measured using models like Overseer and allocations should be based on Land Use Capability. Policies to this effect should be included in the PMEP. Policy 15.1.25 should be amended to identify non-regulatory methods as a tool but not to set up a preference for their use as is currently inferred.

Comment [N16]: Sustainable Rural Land Management Practices/Good Management Practice standards should be required as a minimum. These constitute a social license to operate. There is no justification for allowing rural production businesses to continue that do not comply with these standards. Other business types must comply with strict industry operating standards. There is no reason why rural production activities should be exempt for a similar requirement.

Comment [N17]: A course of action based on a requirement to "promote" is weak. Planting of riparian margins should be required as a condition of consent in situations where it is a necessary and effective tool to address water quality pressures.

Marlborough. Riparian planting along these drains needs to be undertaken carefully to ensure that the effectiveness of the drainage network is not adversely affected.

[D]

Policy 15.1.28 – To require where appropriate (as part of the subdivision consent process) the creation of esplanade reserves and esplanade strips to maintain or enhance water quality.

Esplanade reserves or esplanade strips can be taken for the purposes set out in Section 229 of the RMA, including where this will contribute to the protection of "conservation values" by maintaining or enhancing water quality. This policy signals that where conservation values are known to exist in surface waterbodies and those values are at risk due to degraded water quality or the potential for reduced water quality, then land may be taken or set aside upon subdivision. The resulting esplanade reserve or esplanade strip would act as a buffer between the waterbody and adjoining land use, reducing the potential for land use to adversely affect water quality.

Tables 15.1 and 15.2 identify rivers that could benefit from the establishment of either an esplanade reserve or esplanade strip for water quality reasons. There may also be other circumstances where the application of the policy is relevant.

[R, C]

Policy 15.1.29 – To control land disturbance activities in order to:

(a) Avoid ~~mitigate~~ the adverse effects of increased sediment runoff to fresh waterbodies or coastal water; and

(b) avoid the potential for direct entry of contaminants into groundwater.

Comment [N18]: Sediment is a significant stressor on water quality and in-water ecosystems. Land disturbance activities should be controlled so that increased sediment does not occur.

Controls will be applied to cultivation, excavation, filling and vegetation clearance to minimise the potential for sediment to reach rivers, lakes, wetlands and coastal waters. These controls will include the way in which the activity can be undertaken and the proximity of the activity to waterbodies or coastal water. Where there is certainty that activities undertaken in a particular way will not adversely affect water quality, the control can take the form of enabling rules. However, where there is uncertainty about the effect of the land disturbance activity on water quality and it is considered necessary to exercise discretion, then a discretionary activity rule will be used.

Where excavations intercept groundwater at the time of the works (or thereafter), there is a possibility of aquifer contamination. Controls will be applied to excavation to minimise the potential for any contaminant to reach groundwater. This includes the drilling of a well and the management of the well head once it is commissioned.

This policy assists to give effect to Policy 22 of the NZCPS.

[R]

Policy 15.1.30 – Protect groundwater sources of community drinking water by identifying land overlying groundwater vulnerable to leachate contamination. Manage, with respect to this land:

(a) change in land use to activities that have the potential to result in leachate discharges so that activities are, where practicable, located elsewhere or the contaminants are contained;

(b) existing land use activities so that any potential for groundwater contamination is monitored and, where necessary, corrective action is taken;

(c) point source discharges of contaminants to land; and

(d) excavation.

Groundwater is the source of drinking water for most of Marlborough's towns and small settlements. This policy establishes controls on activities that could result in groundwater becoming unsafe for consumption as a result of the leaching of contaminants into groundwater. The vulnerability of aquifers to leachate contamination is determined by the depth of the aquifer and the permeability of the overlaying soil. Any area of land above an aquifer considered to be high risk has been mapped in the MEP as a Groundwater Protection Area. Within this area, change of land use to activities likely to generate leachate should, where practicable, be avoided. Where it is not considered possible to do so, provision must be made to contain the leachate generated. The groundwater beneath existing land uses will also be monitored. Where land use in the area is observed to be adversely affecting groundwater quality, actions may be required to avoid the effect in the future. The discharge of contaminants and excavation within groundwater protection areas will also be regulated to avoid any adverse effect on groundwater quality. Collectively, the controls implemented through this policy will assist to protect the health and wellbeing of communities that rely on groundwater as a source of drinking water.

[R, C]

Policy 15.1.31 – Recognise that disturbing the seabed or the wet bed of a lake or river results in a discharge of sediment that has the potential to cause adverse effects on water quality.

Sections 12 and 13 of the RMA regulate the activity of disturbing the seabed and the bed of lakes and rivers, respectively. This disturbance usually releases sediment into water, effectively a non- point source discharge of contaminants. To ensure integrated management of the effects of bed disturbance, this policy signals that any water quality effects caused by such a discharge also need to be managed.

[R, C]

Policy 15.1.32 – In considering any resource consent application for the disturbance of a river or lake bed, or the seabed, or land in close proximity to any waterbody, regard will be had to:

- **(a) whether the disturbance is likely to result in non-compliance with the clarity standards set for the waterbody, after reasonable mixing;**
- **(b) in the event of possible non-compliance with the clarity standards set for the waterbody, after reasonable mixing:**
  - **(i) the purpose for undertaking the disturbance and any positive effects accruing from the disturbance;**
  - **(ii) the scale, duration and frequency of the disturbance;**
  - **(iii) the extent to which the bed disturbance is necessary and adverse water quality effects caused by the disturbance are mitigated; and**
  - **(iv) for freshwater, the potential effects of increased turbidity on the values of the waterbody set out in Schedule 1 of Appendix 5 of the Marlborough Environment Plan or on the natural character values of the coastal environment in relation to water quality as set out in Appendix 2 of the Marlborough Environment Plan.**

The construction, placement, maintenance and repair of structures and the installation and maintenance of water intakes, gravel extraction, dredging, flood and coastal protection works activities can all result in disturbance of river, lake and seabed. As well as bed disturbance, activities along the margins of waterbodies can generate sediment that has the potential to enter the water and adversely affect water quality. Water quality standards for turbidity and clarity established throughout this chapter for waterbodies are the appropriate starting point for the consideration of any adverse effects of disturbance on water quality. Where these water quality standards are not likely to be met, it is important that all of the circumstances of the disturbance be considered. Matters under (b) of the policy provide guidance on these circumstances, allowing the relative significance of any adverse effects on water quality to be assessed when determining

land use consent or coastal permit applications. Application of the policy could be influenced by background levels of suspended sediment in the waterbody.

This policy assists to give effect to Policy 22 of the NZCPS.

[R]

Policy 15.1.33 – Require land use consent for the establishment and operation of any new dairy farm.

The policy identifies that land use consent will be required to convert rural land for dairy farming. This will allow the Council to evaluate the extent to which the proposed farm operation is to be set up to avoid or mitigate adverse effects of the operation on ground or surface water resources in the surrounding environment, including significant wetlands. This evaluation is assisted by Policy 15.1.34 below. This policy helps to implement the Council's Progressive Implementation Plan developed to give effect to the NPSFM.

[R]

Policy 15.1.34 – Approve land use consent applications for new dairy farms where the proposed farming would have no more than minor adverse effects on ground or surface water quality or on significant wetlands. A land use consent application must identify (as part of and in combination with the requirements in Schedule 1 RMA) the risks of new dairy farming and provide measures to address those risks, including as a minimum:

(a) measures (including fences, bridges or culverts) to prevent stock entering onto or passing across the bed of any river or lake, significant wetland, or any drain or the Drainage Channel Network;

(b) provision of an appropriate, non-grazed buffer along the margins of any river, lake, significant wetland, drain or the Drainage Channel Network, to intercept the runoff of contaminants from grazed pasture, with reference to the values of fresh waterbodies as identified in Appendix 5;

(c) provision for storage of dairy effluent, with all storage ponds sufficiently sized to enable deferral of application to land until soil conditions are such that surface runoff and/or drainage do not occur;

(d) demonstration of appropriate separation distances between effluent storage ponds and any surface waterbodies to ensure contamination of water does not occur (including during flood events); ~~and~~

(e) a nutrient management plan that includes nutrient inputs from dairy effluent, animal discharges, fertiliser and any other nutrient input and the discharge outputs;

(f) assessment of the effects of any discharges, in combination with all other discharges to the FMU on the receiving environment and identifying how and why the adverse effects are no more than minor; and

~~(e)~~(g) measures in place to ensure that leaching maxims are met or for existing farms measures in place to reduce leaching down to the maxim by a specified date. ~~.~~

This policy defines the test for securing land use consent for a new dairy farm operation. It also describes the measures that the applicant can utilise to manage the adverse effects of the operation on ground or surface water quality, and significant wetlands. The measures set out in (a) to (e) are the minimum expected to be utilised by the applicant. The way in which these measures are to be implemented should be set out in the application.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[R]

15.M.15 Groundwater Protection Areas

Comment [N19]: The PMEP should be amended to include maximum leaching limits for dairy farming that are based on the inherent productive potential (LUC) of the subject land. This ensures that production and intensification occur within the capacity of the environment to sustain itself.

Changes are also required to:
- -Make clear that the other assessment requirements stipulated in Schedule 1 must be addressed.
- -Ensure NMPs also address output figures.
- -Clarify that an assessment of the discharge must occur and that must address cumulative effects.
- -To clarify that discharge limits will be put in place and that the activity must be actively managed to stay within/achieve those.

Identify land in the vicinity of community drinking water supply bores as Groundwater Protection Areas. The spatial extent of the area will be determined by the vulnerability of the underlying groundwater to leachate contamination.

[D]

15.M.16 District rules

Use permitted activity rules to enable the planting of appropriate riparian vegetation on land adjoining rivers, lakes, significant wetlands and coastal waters.

Apply permitted activity standards to require rural land uses with the potential to adversely affect water quality through non-point source discharges to be setback from rivers, lakes, significant wetlands and coastal waters.

Apply district rules within Groundwater Protection Areas to ensure that land uses with the potential to result in leachate discharges require resource consent. This will ensure that the potential adverse effects of the proposed activity on groundwater quality for the community water supply are appropriately assessed.

[R, C]]

15.M.17 Regional rules

Apply regional rules to discharges to land and excavation activity within Groundwater Protection Areas. In most cases, resource consent will be required to discharge or excavate, in order to ensure that the potential adverse effects of the proposed activity on groundwater quality for the community water supply are appropriately assessed.

Apply regional rules to land disturbance activities for water quality outcomes. Standards will define the reasonable limits to avoid adverse effects on water quality, including the nature and scale of land disturbance activities and their proximity to waterbodies.

Apply regional rules to control disturbance to the seabed, river and lake beds.

[R, C]

15.M.18 Liaison

Work with established rural industry groups to develop and implement sustainable land management programmes. The initial focus will be on viticulture, pastoral farming (especially dairy and intensive beef farming), arable farming and forestry, but may be expanded to other rural activities if the need arises.

Rural land uses upstream of or adjacent to rivers that have degraded water quality and rural land uses in groundwater protection areas are a priority for sustainable land management programmes.

Work with landowners and community groups to establish and enhance riparian margins and improve water quality.

[R]

15.M.19 Incentives

Consider the use of incentives, such as rates relief and the provision of plant material and fencing at low cost to landowners for riparian management purposes.

[R]

15.M.20 Monitoring

Monitor groundwater within groundwater protection areas to establish the effect of existing land use activities on groundwater quality.

[R, C, D]

15.M.21 Information

Provide information, including guidelines, to landowners, resource users and the public:

- *to generally promote awareness of water quality issues; and*
- *to encourage the adoption of appropriate land management practices to minimise non-point source discharges.*

Although the focus of this method will be on rural resource users, the information will also be applicable to residential situations (in both rural and urban environments).

Provide information on the benefits of retiring and planting riparian margins. This will include information on the appropriate width of riparian margins and suitable plant species, taking into account the variation in the nature of waterbodies/coastal waters and the adjoining rural land uses. Information on options for formally protecting retired riparian margins can also be provided.

[R]

15.M.22 Research

Where appropriate, support research into the cumulative effects of land use (including land use intensification) on water quality and improved land management practices.

Undertake investigations to gain a better understanding of the impact of particular rural land use activities on water quality and encourage rural industry groups to participate in the investigations.

[R]

15.M.23 Advocate

Advocate to the manufacturers and suppliers of agrichemicals and fertilisers to strengthen the education and information provision role they play with a view to minimising the likelihood and potential effects of agrichemical and fertiliser application on water quality.

[R, C]

15.M.24 Codes of practice and industry guidelines

Advocate to rural industry groups that they, locally or nationally, prepare and adopt codes of practice or other guidelines aimed at reducing the effects of non-point source discharges where they do not already exist.

[R]

15.M.25 Management plans for dairy farming

Water Quality Management Plans can be used as a means of demonstrating on an ongoing basis that any adverse effects on water quality resulting from dairy farming will be avoided, remedied or sufficiently mitigated. They provide the ability to consider all farm management practices with the potential to adversely affect surface or groundwater quality or wetlands and manage these risks in an integrated way. This also enables the dairy farmer to progressively plan farm upgrades based on priority or in the case of new farms, at the time of establishment. Water Quality Management Plans can be used to support applications for land use consent to convert the use of land to dairying.

Nutrient Management Plans will be required as a means to demonstrate how nutrient inputs associated with dairy farming are to be managed to ensure any adverse effects on water quality will be avoided, remedied or mitigated. Nutrient Management Plans should be written documents that incorporate a nutrient budget developed by an accredited nutrient adviser using OVERSEER® or similar. This should describe how the major plant nutrients (nitrogen, phosphorus, sulphur and potassium) and any other nutrients of importance to specialist crops will

be managed (including all sources of nutrient - for example, discharges from farm dairy effluent systems, animal discharges and/or atmospheric nitrogen fixation.

Air

In general, Marlborough enjoys good air quality, due to the District's windy climate and low, dispersed population. However, air quality in some locations has been reduced due to human activities resulting in the discharge of contaminants into the air. These localised air quality problems impact on the amenity and health of the community.

National Environmental Standards for Air Quality (NESAQ) came into effect in 2004. These comprise of a range of ambient air quality standards applying to carbon monoxide, nitrogen dioxide, ozone, sulphur dioxide and particulate matter (PM_{10}). The air pollutant of most concern in Marlborough is particulate matter. Particles found in the air we breathe vary greatly in size and the greatest health hazard comes from the smallest particles (those less than 10 microns in diameter) as they are easily inhaled into our lungs). The NESAQ sets a threshold concentration for PM_{10} of 50 microns. By 2016, in designated areas (called airsheds) the threshold concentration will only be allowed to be exceeded once in any 12 month period. From 2016, more than one such breach will mean that the Council is non-compliant with the NESAQ. There is currently one airshed in Marlborough, encompassing the urban area of Blenheim.

Other occasional air quality issues in Marlborough include smoke, which can affect the amenity values enjoyed on neighbouring or nearby properties, and spraydrift, resulting in complaints to the Council. Spraydrift occurs when the aerosols from the application of agrichemicals move beyond the boundary of the property on which the chemicals are used. Given the hazardous nature of agrichemicals, spraydrift creates a risk to human health on neighbouring properties and those in close proximity to the property.

The Council is responsible for the management of the discharge of contaminants into air. Unless expressly allowed by a rule in a regional plan or by resource consent, the discharge of contaminants into air is prohibited by the RMA. However, many activities result (either directly or indirectly) in the discharge of contaminants into air. One of the roles of the MEP is to identify which air discharges are appropriate, the circumstances in which they are appropriate, and which air discharges are not appropriate.

Although the discharge of greenhouse gases contributes to the global issue of climate change, this issue is being addressed by central government at an international and national level. The RMA effectively excludes regional councils from the role of regulating emissions for climate change purposes (Sections 70A and 104E of the RMA). For this reason, nothing in this chapter specifically deals with the discharge of greenhouse gases into air. However, Chapter 19 - Climate Change does contain provisions seeking more generally to mitigate and adapt to the adverse effects on the environment arising from climate change.

Issue 15D – The discharge of particulate matter into air has the potential to cause significant health effects in urban areas, particularly in Blenheim.

Clean, fresh air is an important and valued part of Marlborough's environment and the community's quality of life. Unfortunately, elevated levels of particulate can build-up over Blenheim during the winter months, especially during calm, cold evenings. The main source of this PM_{10} is solid fuel burning, mainly from domestic home heating, which contributes up to 92 percent of the anthropogenic PM_{10} measured. Other sources include backyard burning of waste and discharges associated with industrial activities.

During winter, concentrations of PM_{10} measured in Blenheim have exceeded the NESAQ concentration of 50 micrograms per cubic metre (24 hour average). During these peak periods, almost one tonne of PM_{10} can be discharged per day and results in common health effects, including irritation of the eyes, throat and lungs. For people with existing respiratory conditions such as asthma or bronchitis, breathing in particles can make their conditions much worse.

Achieving compliance with the NESAQ will require a 38 percent reduction in PM_{10} emissions. Even if the Council relies on home owners replacing polluting heating methods with modern solid fuel burning appliances (or other heating methods) at the end of their useful life, PM_{10} emissions will fall by only 10 percent. In other words, some form of intervention is required to achieve compliance with the NESAQ and ensure a safe living environment over the winter months.

Though Picton and Renwick have also been monitored (and currently been found to comply with the NESAQ), Blenheim is the only airshed within Marlborough. Other urban areas within the District may also have elevated PM_{10} levels, but monitoring has not been undertaken in those areas.

[RPS, R]

Objective 15.2 – Improve the ambient air quality of Blenheim by reducing PM_{10} concentrations.

Monitoring has shown that Blenheim's air quality during the winter months needs to improve to protect the health and wellbeing of the urban community. This can be achieved by reducing the ambient level of PM_{10}, most of which is sourced from home heating. The following policies and methods are targeted at reducing PM_{10} discharges at source to improve air quality. This will ensure that the current health effects of high PM_{10} levels, which range from minor irritation through to significant respiratory conditions, are minimised.

[RPS, R]

Policy 15.2.1 – Prohibit the use of open fires and the outdoor burning of organic and inorganic waste within the Blenheim airshed.

It is estimated that 11 percent of the PM_{10} released from home heating in Blenheim is sourced from open fires. Emissions from open fires are between two and fourteen times greater than those from appliances meeting the 1.5 grams of particles per kilogram of dry wood burnt criteria established by the NESAQ (open fires using wood, 12g/kg; open fires using coal, 21g/kg; modern enclosed burner 3g/kg). Based on these emissions, the policy recognises that open fires are not an appropriate means of home heating if winter air quality is to be enhanced. As the use of open fires is not decreasing at significant rates in Blenheim, a prohibition is necessary. A transition period will be provided to enable homeowners time to source and finance alternative heating sources. Note that Regulation 24A of the NESAQ also prohibits the use of domestic open fires in new homes.

Outdoor burning of organic and inorganic waste in Blenheim is also another source of PM_{10} that should be avoided. Outdoor burning is controlled through the Forest and Rural Fires Act 1977 and a system of fire permits. Due to Marlborough's dry climate, total fire bans are often in place over summer, which can mean that burning occurs during periods when the risk of non-compliance with the NESAQ is higher. The health risks posed by outdoor burning increases if the waste contains wood treated with preservatives, painted or stained wood, metals, rubber, synthetic materials, plastics or waste oil. The resulting smoke is also likely to have a considerable nuisance effect given the close proximity of neighbours on urban properties. It is therefore appropriate to prohibit the outdoor burning of waste in Blenheim with immediate effect.

[RPS, R]

Policy 15.2.2 – Phase out small scale solid fuel burning appliances older than 15 years of age within the Blenheim airshed.

This policy recognises that the efficiency of solid fuel burning appliances decreases with time and ceases to be efficient after 15 years. Modelling has shown that the NESAQ will be achieved by

2016 if, in conjunction with the prohibition on open fires and outdoor burning of rubbish, older style enclosed burning appliances are replaced at the end of their 15 year life. This policy seeks to ensure that this phase out occurs by encouraging people to either replace existing solid fuel burning appliances with modern and compliant solid fuel burning appliances or install other clean forms of heating (e.g. electric). The Council retains records of the installation of fuel burning appliances and the priority for action will be those solid fuel burning appliances installed prior to 2001 (i.e. 15 years prior to 2016).

Measures included in Chapter 18 - Energy in promoting and encouraging energy efficient dwellings, including passive heating, will also assist in this regard.

[RPS, R]

Policy 15.2.3 – Require all new multi-fuel burning appliances to comply with the National Environmental Standards for Air Quality design standard for wood burning appliances.

The NESAQ contains regulations for wood burning appliances, including Regulation 23 which sets a design standard requiring wood burning appliances to discharge less than 1.5 grams of particles for each kilogram of dry wood burnt. The Council is aware that multi-fuel burning appliances exist that can burn wood as well as other fuels. Currently there are no standards in the NESAQ that apply to multi-fuel burning appliances. However, to ensure that new residential developments and the replacement of existing burning appliances do not reduce air quality in the Blenheim airshed any further, it is appropriate to require any new multi-fuel burning appliances to comply with the NESAQ design standard on an ongoing basis.

[R]

Policy 15.2.4 – Refuse discharge permit applications to discharge PM_{10} into air within the Blenheim airshed if the discharge is likely to increase the concentration of PM_{10} by more than 2.5 micrograms per cubic metre (24 hour average) in any part of the airshed, unless:

(a) the Blenheim airshed average exceedance is less than 1 per year; or

(b) the applicant offsets the proposed PM_{10} discharge by reducing PM_{10} discharges from another source(s) in the airshed by the same or greater amount.

At present, non-residential (e.g. commercial, industrial and public health) emissions represent less than 10 percent of PM_{10} emissions in Blenheim ambient air. There is the potential for total PM_{10} emissions from this source to increase as a result of growth. To achieve reductions in ambient PM_{10} concentrations in the Blenheim airshed, it is important that non-residential sources do not significantly increase their emissions as this would compromise the gains achieved by reducing emissions from the domestic sector. The policy therefore establishes a threshold for acceptable increase in PM_{10} concentration. The threshold reflects Regulation 17 of the NESAQ and applies to discharges requiring discharge permit only. Regulation 17 also provides for the exemptions in (a) and (b) of the policy.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[R]

15.M.26 Regional rules

Maintain a Blenheim airshed and establish other airsheds as necessary to allow the application of regional rules to achieve compliance with the NESAQ.

Apply regional rules to prohibit the outdoor burning of organic and inorganic waste and the discharge of contaminants from open fires within the Blenheim airshed. An exception applies to open fires in scheduled heritage resources included in the MEP.

Set threshold levels for non-residential fuel burning devices (based on energy output) to establish the need for discharge permits.

Permitted activity rules will allow the discharge of contaminants to air from NESAQ compliant wood burning appliances and other appropriate solid fuel burning appliances. These include new multi-fuel burning appliances, which although not covered by the NESAQ, comply with the design standard for wood burning appliances and for existing burning appliances that are less than 15 years in age.

[R]

15.M.27 Monitoring

In accordance with Regulation 15 of the NESAQ, the Council will continue to monitor within the Blenheim Airshed for compliance with ambient air quality standards established by the NESAQ and any other airshed established in the future.

[R]

15.M.28 Incentives

Consideration will be given to assisting landowners to replace open fires and older style enclosed burning appliances and to make energy efficient improvements. This may require approaches to central government and the Energy Efficiency and Conservation Authority for greater financial assistance with offering incentives.

[D]

15.M.29 Recycling services and facilities

Use of facilities that can be used to dispose of organic and inorganic waste that cannot be burnt.

[R]

15.M.30 Information

Ensure that the community is well informed about:

- *alternative means of managing waste and the facilities that can be used/accessed to dispose of waste that can no longer be burned;*
- *the choices of heating and heat conservation methods;*
- *the incentives available to the public to change to cleaner, more efficient methods of home heating and fuel use; and*
- *the need to use dry firewood to reduce PM_{10} emissions.*

Issue 15E – The discharge of contaminants into air that reduce the amenity of the surrounding area or create an undue risk to human health.

The most common sources of air contaminants in Marlborough are smoke and spraydrift. These have the potential to adversely affect the ability of people living in close proximity to the source to enjoy their own property. Smoke and spraydrift can also cause adverse health effects for residents or workers.

Smoke is most commonly created as a result the burning of vegetation or waste and the inefficient operation of boilers. This can occur in both urban and rural environments. Outdoor burning of household, garden and farm rubbish can cause localised nuisance problems and generate potentially hazardous compounds, depending on what is being burnt. The nuisance effects

resulting from “backyard burning” of rubbish are the main source of air quality complaints received by the Council.

Agrichemicals that spread beyond the property boundary can cause adverse environmental effects. Spraydrift has the potential to cause adverse health effects and damage in non-target areas, especially where the property adjoins residential areas or spaces frequented by the public (e.g. schools and reserves). Other adverse effects include damage and contamination of crops, waterbodies and sensitive flora and fauna outside the target area.

A variety of small and medium sized industrial and commercial processes are located in Marlborough, including spray painting, abrasive blasting, food and beverage manufacture and processing timber mills that have the potential to have localised impacts on air quality. Disposal of organic waste arising from human and farming activities and industries processing agricultural products can also affect air quality. These impacts must be weighed against the need for these activities to occur. It is recognised that in many cases there are few alternatives.

In some areas, “reverse sensitivity” issues may be a problem. Reverse sensitivity situations arise where lawfully established activities that have addressed offsite effects as far as practicable and reasonable are sought to be constrained with new and often incompatible land uses locating nearby, including residential development.

[R]

Objective 15.3 – Reduce the potential for nuisance and health effects from the discharge of contaminants into air.

People should be able to enjoy their own property without the nuisance or potential health effects caused by smoke, spraydrift and other discharges to air from nearby properties. These effects can usually be minimised through appropriate management practices. The use of such practices should ensure that the potential for these contaminants to move beyond the property boundary and adversely affect others is reduced. Smoke, spraydrift and other discharges to air are usually created in association with particular uses of land. The following provisions aim to allow the continued use and development of natural and physical resources while ensuring that any adverse effects on air quality are avoided, remedied or sufficiently mitigated.

[R]

Policy 15.3.1 – Prohibit the discharge of contaminants into air resulting from the combustion of materials that will give rise to concentration of contaminants likely to be dangerous or toxic.

This policy recognises that some people choose to burn inappropriate materials and that this practice contributes to excessive concentrations of air contaminants, resulting in objectionable or offensive smoke and odour and associated health and nuisance problems. Those materials inappropriate for burning are listed in the MEP zone rules. The policy implements Regulations 4 to 10 of the NESAQ.

[R]

Policy 15.3.2 – Require all discharges to comply with the ambient air quality standards established by the National Environmental Standard for Air Quality.

The NESAQ sets ambient air quality standards that apply to both airsheds and open air. The standards include threshold concentrations for carbon monoxide, nitrogen dioxide, ozone, PM_{10} and sulphur dioxide, and specify the number of exceedances allowed (if any) within a certain timeframe. All discharges are required to comply with the ambient air quality standards in order to protect the health and wellbeing of people in close proximity to any proposed discharge. This policy will be implemented through the assessment of discharge permit applications, the imposition of resource consent conditions and the establishment of permitted activity rule standards.

[R]

Policy 15.3.3 – Control emissions from large scale fuel burning devices outside the Blenheim airshed and approve discharge permit applications where the discharge will not be dangerous or noxious, or cause an offensive or objectionable effect beyond the boundary of the site(s) from where the discharge originates.

Many of the large scale fuel burning devices in Marlborough are located in rural and industrial environments outside the Blenheim airshed. These devices will inevitably discharge contaminants, especially those devices burning solid fuel, and the policy seeks to prevent nuisance effects beyond the site. Good practice can minimise emissions so that neighbours do not experience significant nuisance effects. For example, good maintenance and operation of industrial boilers can reduce visible smoke emissions to brief periods. Good practice can prevent objectionable or offensive dispersal of smoke or deposition of particles beyond the boundary of the property the discharge originates from. The policy uses the standards provided by Section 17 of the RMA.

[R]

Policy 15.3.4 – Manage the use of agrichemicals to avoid spraydrift. The boundary of the property on which the application of agrichemical occurs is the point at which management applies, as follows:

- **(a) any agrichemical should not move, either directly or indirectly, beyond the property boundary of the site(s) where it is or has been applied; and**
- **(b) agrichemical users will be required to utilise best practice and exercise reasonable care to achieve (a).**

The use of agrichemicals is an important management tool, especially in rural environments where they contribute to the control of animal and plant pests and help to minimise crop diseases. Use of agrichemicals in the environment is controlled under the Hazardous Substances and New Organisms Act 1996. Each agrichemical must be approved for use by the Environmental Protection Authority. The Authority can also impose specific controls on the application of agrichemicals to ensure safe use. The policy signals that the Council's role in controlling the discharge of contaminants to air is restricted to ensuring there are no off-site adverse effects. The property boundary is therefore established as the point to which management is applied, as agrichemicals have the potential to cause health effects and other unintended consequences once they move beyond the boundary of the property on which they are being used. Spraydrift usually occurs as a result of inappropriate application methods and practices (e.g. applying agrichemicals in windy conditions). The Council will rely on agrichemical users applying best practice and exercising reasonable care to avoid spraydrift beyond their property boundary.

[R]

Policy 15.3.5 – Manage discharges of contaminants to air not specifically provided for in Policies 15.2.1 to 15.2.3 or 15.3.1 to 15.3.4 by:

- **(a) allowing, as permitted activities, discharges of contaminants into air from industrial or trade premises or industrial or trade processes that have no more than minor adverse effects on the environment;**
- **(b) avoiding or mitigating adverse effects of localised ground level concentrations of contaminants, including cumulative effects on:**
  - **(i) human health; and**
  - **(ii) amenity values; and**
- **(c) avoiding or mitigating adverse effects on any other values.**

A wide range of contaminants are discharged to air as a result of day-to-day activities, especially from industrial or trade premises and processes. Provided they are properly managed, many of these discharges can occur without the risk of significant adverse effects on the environment. Permitted activity rules can be used to enable these discharges, subject to appropriate standards.

Those discharges not covered by the permitted activity rules developed under (a) and not otherwise covered by Policies 15.2.1 to 15.2.3 or 15.3.1 to 15.3.4 will require resource consent. Ground level concentration of contaminants will be used to assess the actual or potential effects of the discharge and its impact on human health and amenity values. The Council can also have regard to any other impact of the discharge on the wider environment, including on water quality and biodiversity.

[R]

Policy 15.3.6 – Promote measures to avoid or mitigate the effects of the discharge of contaminants to air at their source.

Consistent with the waste management provisions of the MEP, it is appropriate to minimise contaminants present in discharges to air at their source. The Council will work with resource users and groups representing resource users to ensure that best practices are developed and implemented to reduce the discharge of contaminants to air. For example, waste may be able to be re-used, recycled or disposed of through alternative methods, rather than being burned. Where the discharge of contaminants to air cannot be avoided (e.g. in an industrial or trade process for which there are no alternatives), then the Council will encourage resource users to minimise the concentration of contaminants in the discharge through good management (whether a discharge permit is required or not).

[R]

Policy 15.3.7 – Having adequate information about the state of Marlborough's air quality to enable the Council to assess the cumulative effects of discharges to air on amenity values and human health.

The Council's knowledge about the state of air quality in Marlborough is not perfect or complete. This means that the air quality policies may not be effective in achieving Objective 15.3. For this reason, the Council will seek to identify information gaps, either in terms of contaminants monitored or the location of monitoring, and adjust or expand the state of the environment monitoring programme as resourcing and priorities allow. The information gathered may inform the next review of the MEP or even require a plan change if the adverse effects are significant enough.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[R]

15.M.31 Regional rules

Use regional rules to establish standards for the discharge of contaminants to air that adequately protect human health and amenity values.

Standards will be imposed through regional rules requiring dischargers to keep accurate records of the discharge of particular contaminants to air, including agrichemicals.

Apply a prohibition to the discharge of contaminants to air by the combustion of materials that result in significant adverse effects on the environment.

[R]

15.M.33 Monitoring

In addition to monitoring within airsheds, particulate levels will be monitored in areas not covered by airsheds and where location specific issues arise. This may result in the addition of further airsheds in the event of non-compliance with the NESAQ. Monitoring of other air contaminants, including those specified in the NESAQ, may occur from time to time.

[R]

15.M.34 Information

Ensure that the community is aware of prohibited materials that cannot be burned and why these prohibitions exist. Also ensure that alternative options to the burning of waste are well publicised.

Consider including information on LIMs advising prospective purchasers of rural land of the possible presence of activities that may affect amenity values (reverse sensitivity) through effects such as smoke and spraydrift.

[R]

15.M.35 Codes of practice and industry guidelines

Advocate to resource user groups that they, locally or nationally, prepare and/or adopt codes of practice or other guidelines aimed at reducing the effects of the discharge of contaminants to air. This will include NZS8409:2004 Management of Agrichemicals (or its successor), which provides specific guidance on the safe, responsible and effective management of agrichemicals.

[R]

15.M.36 Advocate

Communicate to manufacturers and suppliers of agrichemicals and application machinery the role they have in education and providing information on the use of agrichemicals, with a view to minimising the likelihood and potential effects of spraydrift beyond property boundaries.

[R]

15.M.37 Liaison

Work with Sustainable Winegrowers and other industry groups that collect information on agrichemical use to monitor the nature (including methods of application) and extent of agrichemical use in Marlborough.

Work with industry groups and individuals undertaking discharges to air to develop and implement measures to reduce contaminant concentrations in discharges to air.

Soil

Soil is the upper most layer of material that covers much of the earth's land surface. It consists of different elements including minerals, rock fragments, dead and decaying organic matter and living organisms. Soil is compromised of more than the top 20 centimetres of earth cultivated by the farmer or gardener before sowing crops or pasture; it includes soil horizons (layers) that extend down to the mineral rock material (parent material) from which the soil has developed.

Soils evolve over time through the additions and losses of materials. Such changes can be influenced by climate, living organisms, topography and original rock forms. Soils are therefore highly variable in their composition, appearance and importantly, use.

There are over 87 different soil types in Marlborough, each reflecting variation in parent materials, age of soil development, climate and topography. Collectively, these diverse soils are one of our most important natural resources. Marlborough's social and economic development has historically been based on its strong primary production sector, including farming, forestry, food (and supplementary feed) crops, horticulture and most recently, viticulture. The ability to grow pasture and a wide variety of crops relies upon the health of our soil resources.

We also depend on soil resources to treat and contain many of the contaminants we deliberately or inadvertently release into the environment. In doing so, soil helps to maintain community health standards and protect water resources from contamination. Soil also acts to absorb, channel and store water, a particularly important function in Marlborough's dry climate.

Though it is easy to take for granted, we depend on our soil resource, particularly its quality. Soil quality refers to the biological, chemical and physical state of the soil and the maintenance of soil ecosystems. A range of factors contribute to soil quality, including soil structure, water holding capacity, soil fertility and organic matter content. Deteriorating soil quality will adversely affect the productive capacity of the soil and all of the other important functions currently performed by soil resources. Maintaining and enhancing soil quality is therefore a significant issue.

Issue 15F – Some land use activities or practices have the potential to adversely affect soil quality.

Soil quality is fundamental to the environmental and economic wellbeing of Marlborough. It is therefore important that land use activities are undertaken in a manner that does not degrade soil quality. Land use activities, or land management practices associated with particular activities, can change the biological, chemical and physical state of the soil and in doing so may adversely affect soil quality and productivity. Degradation of the soil resource is not always obvious and can occur progressively over a long period of time. It is difficult to establish the extent and severity of soil degradation in Marlborough as limited soil quality monitoring has been carried out. There are considered to be some major problems relating to soil quality and what monitoring that has been done indicates that in some cases primary production has resulted in soil compaction and elevated levels of nutrients/trace elements.

Soil compaction and changes to the nutrient status of soils are of particular concern. Heavier clay-based soils are more vulnerable to soil compaction than alluvial soils, particularly when they are heavily stocked or worked under wet conditions. Frequent use of heavy vehicles/machinery in the same location is also likely to cause soil compaction. Soil compaction increases soil bulk density, reduces aeration and decreases infiltration. In turn, these changes adversely affect pasture and crop growth and lead to increased water and nutrient runoff. Increased water runoff can have significant drainage implications, especially if existing drainage infrastructure is unable to manage the increased volume and rate of runoff.

Soil organic matter is central to many functions in soils. It is an important source of nutrients, contributes to a stable soil structure, helps retain and store water and nutrients added to soil, and provides a source of energy for soil microbes. The maintenance of organic matter in soils therefore makes a significant contribution to soil quality. Activities such as frequent cultivation of soils and the removal of vegetation can result in low organic matter status in soils. A low organic matter status puts soils at risk of poor aeration, poor drainage and soil structure degradation, all of which can potentially negatively affect crop productivity and predispose soil to a range of environmental issues (such as erosion loss).

Soil contains essential mineral elements required by plants and animals. An inevitable consequence of the productive use of soil is that, at some time in the future, soils will become unable to sustain high levels of production unless those nutrients are replaced. Soil depletion refers to the reduction of soil nutrients to a level where their potential to sustain primary production is adversely affected. Although fertiliser use has decreased over time in Marlborough, many primary producers still apply it to maintain the nutrient status of the soil and therefore soil productivity. Excessive fertiliser application creates the potential for nutrients such as nitrogen and phosphate to runoff into adjoining rivers and wetlands or leach into underlying groundwater.

Other elements may also be added to the soil, especially through the application of liquid wastes and in some cases the irrigation of water. For example, sodium can be a significant component of wastewater. Soils with elevated sodium concentrations have the potential to cause a range of adverse effects, including soil structural deterioration (which can reduce water infiltration and hydraulic conductivity) and reduction in plant growth.

As land use change occurs and our understanding of the soil resource improves, there is the potential for other soil quality issues to emerge. For example, a trend toward re-contouring of

land as viticulture has expanded onto rolling or hill country may change soil in those areas. However, the effects of re-contouring are currently largely unknown.

The discharge of contaminants such as plant, animal and human wastes into or onto the soil can also adversely affect soil quality variables. The potential for these adverse effects is covered in Chapter 16 - Waste.

Topsoil is the most productive part of the soil profile and any erosion of topsoil adversely affects soil quality. Erosion can occur naturally as a result of normal geologic processes and/or as a result of extreme weather events. However, activities that disturb the topsoil can accelerate soil erosion processes. Excavation, filling, cultivation and vegetation clearance all have the potential to expose bare soil, which in turn creates conditions conducive to accelerated soil erosion, especially on steep slopes. Some soils, such as loess soils, are more susceptible to soil erosion.

Eroded soil usually moves downhill (unless eroded by wind) and eventually enters a river or the sea. Once in these waterbodies, the finer soil will settle, a process called sedimentation. Sedimentation can cause damage to marine and freshwater ecosystems and may reduce the quality of the water for instream values and uses such as drinking or irrigation. Larger soil particles, including gravel and cobbles can similarly be eroded and deposited in downstream river channels, thus reducing the waterway area and leading to flood overflows.

[RPS, R]

Objective 15.4 – Maintain and enhance the quality of Marlborough's soil resource.

The social and economic wellbeing of Marlborough relies on the productive potential of the soil resource, which has been described in Chapter 4 - Use of Natural and Physical Resources as a regionally significant resource. To ensure that this continues, it is important that soil quality is maintained and enhanced.

[RPS, R]

Policy 15.4.1 – Improve our understanding of the effect of land use on soil quality.

Despite the importance of the soil resource, to date only limited soil quality monitoring has been undertaken. This makes it difficult to establish the impact of various land use activities and practices on soil quality. The Council will therefore undertake greater monitoring of the biological, chemical and physical state of soils across the District as part of its state of the environment monitoring. This will include investigating the extent of accelerated soil erosion. It is important that the monitoring is undertaken at locations that reflect the diversity of soil types and land uses across Marlborough. The findings can then be applied to determine whether existing or emerging land management practices should be continued or altered to minimise impact on the quality of Marlborough's soil resource.

The Council will continue to monitor land use changes in the Marlborough environment as it may need to respond quickly to identify any potential adverse effects of the change on soil quality.

Often rural resource users themselves are best placed to monitor the condition of the soil resource on their property. The Council will encourage rural resource users to undertake monitoring through the provision of appropriate tools and information. The application of the tools or information may help land owners and resource users to recognise soil quality issues, allowing for modification of land management practices to avoid adverse effects on the soil resource.

[R]

Policy 15.4.2 – Encourage land management practices that:

(a) maintain soil structure by:

(i) avoiding or remedying soil compaction;

(ii) avoiding the loss of soil organic matter; and

(iii) avoiding or remedying the effects of increased sodium levels;

(b) maintain nutrients at appropriate levels; and

(c) retain topsoil in situ.

This policy recognises that while soil structural degradation, nutrient depletion/enrichment and accelerated soil erosion are not of widespread concern in Marlborough, there is a long term risk that irreversible degradation in soil quality may occur if appropriate land management practices are not used. The Council will work with rural industry groups to ensure that land management practices address the potential for unnecessary soil compaction, accelerated soil erosion, retention of organic matter and increased soil sodium concentrations and nutrient levels. Subsequently, some existing land uses may continue while elsewhere adjustments and changes to land management practices may be required. The Council may also undertake joint investigations with rural industry groups to gain a better understanding of the impact of particular rural land use activities and land management practices on the soil resource.

[R]

Policy 15.4.3 – Control land disturbance activities to retain topsoil and minimise the potential for eroded soil to degrade water quality in lakes, rivers, significant wetlands and coastal waters.

Land disturbance is any activity that involves excavation, filling, cultivation or vegetation clearance. Each of these activities has the potential to expose bare soil to the elements. This policy signals that these activities are to be controlled in the rural, coastal and urban environments. The controls will be used to ensure that the potential for accelerated soil erosion and water quality degradation created as a result of land disturbance is minimised. Where there is certainty that activities undertaken in a particular way will protect the soil and water resource, control can take the form of enabling rules. However, where there is uncertainty about the effect of the land disturbance activity, a discretionary activity rule will be used.

The use of these rules reflects the importance of the soil resource to the social and economic wellbeing of Marlborough, particularly for retaining primary production options for rural resource users. The policy also recognises the potential for runoff contaminated with sediment to adversely affect water quality and seeks to manage the effects of land disturbance on water quality in an integrated manner. The use of the controls detailed here will ensure that soil and water resources are conserved for current and future generations.

Land disturbance is also controlled through the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011, where there is a risk that the soil is contaminated to the extent of being a risk to human health. In these circumstances, the NES sets out the status of disturbing contaminated soil through rules and allows consideration of the appropriateness of the disturbance, given the amount and kind of soil contamination. The rules of the NES provide procedures to manage the risk of disturbing contaminated soil on human health only, and do not extend to the purpose of soil conservation.

[R]

Policy 15.4.4 – In considering any land use consent application to undertake land disturbance, regard shall be had to:

(a) the physical characteristics of the site, including soil type, slope and climate;

(b) any industry standards that are relevant to the activity;

(c) sediment and erosion control measures required to reasonably minimise adverse effects caused by rainfall events, including the use of setbacks from waterbodies;

(d) the proximity of the land disturbance to any fresh waterbody or coastal water and the potential for eroded soil to reach the waterbody or coastal waters;

(e) where it is possible for eroded soil to reach any fresh waterbody or coastal water:

(i) the objectives and policies of this chapter under Issues 15A to 15C; and

(ii) the likely degree of compliance with water quality standards set for the waterbody;

(f) any potential adverse effects on community water supplies; and

(g) whether the land disturbance is necessary for the operation or maintenance of regionally significant infrastructure.

This policy identifies the matters that the Council must have regard to when considering any land use consent application to undertake land disturbance. These matters will ensure that any adverse effects of land disturbance on soil and water resources are avoided, remedied or mitigated.

For clarity, the policy also applies to activities identified as discretionary by the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011.

[R]

Policy 15.4.5 – Control of animal pests will be a significant focus in maintaining and enhancing soil quality, particularly in the hill and high country of the Wairau, Waihopai, Taylor, Awatere, Ure/Waima and Clarence river catchments.

Pest animals can have a significant impact on soil resources. For example, feral rabbits are a historic threat to the soil resource in southern Marlborough. Their browsing reduces vegetation cover and scratching/borrowing exposes the soil to the elements. Through the Regional Pest Management Plan, the Council and landowners will manage those pest animals that have the potential to accelerate soil erosion, where these pests fulfil the requirements of the Biosecurity Act 1993.

[R]

Policy 15.4.6 – Manage the erosion risk associated with loess soil by:

(a) continuing to maintain the Wither Hills Soil Conservation Reserve;

(b) controlling the discharge of liquid waste onto or into loess soils; and

(c) controlling the excavation of loess soil on slopes.

Loess soil consists of accumulated wind-blown silt prone to tunnel gully erosion as it is held together weakly and tends to disperse or "melt away" if it becomes excessively wet. There are significant areas of loess soil in the rural environment of south Marlborough and a long history exists of managing these soils to reduce the extent of tunnel gully erosion, particularly on the Wither Hills Conservation Reserve.

This reserve comprises 1,100 hectares of hill country that extends the length of the southern boundary of the Blenheim urban area. Eroded material from the reserve has the potential to fill stream channels at the base of the Wither Hills and create a flood risk for the Blenheim urban area. Despite these serious soil erosion issues, the reserve remains a working sheep and cattle farm. It is also unique due to its proximity to Blenheim and its considerable recreational and amenity value. This policy signals that soil conservation management will continue for the foreseeable future.

The policy recognises that the discharge of liquid waste onto loess soil has the potential to increase the risk of tunnel gully erosion by adding to the hydraulic loading on the soil. For this reason, the discharge of liquid waste onto or into loess soils will require a discharge permit so that this risk can be appropriately managed through the resource consent process. Other provisions in Chapter 16 - Waste guide the consideration of any discharge permit application.

Excavation of loess soil on slopes is also controlled under the policy. Such excavation can create preferential flow paths and concentrate runoff and drainage. If not well managed that runoff and drainage has the potential to cause tunnel gully erosion.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[R]

15.M.38 Regional rules

Apply regional rules to land disturbance activities for soil conservation outcomes. Standards will define the reasonable limits, including the nature and scale of land disturbance activities, to avoid adverse effects on the soil resource and adjacent waterbodies. This will include the use of setbacks to create a buffer between land disturbance activities and waterbodies. Where the standards are exceeded, resource consent will be required before the land disturbance can be undertaken.

Where appropriate, use regional rules to enable pest management activity for soil conservation outcomes.

Apply regional rules to manage the risk of tunnel gully erosion by requiring a discharge permit for the discharge of liquid contaminants onto or into loess soil.

[R]

15.M.39 Liaison

To work with established rural industry groups to develop and implement sustainable land management programmes. The initial focus will be on viticulture, pastoral farming (especially dairy and beef farming), arable farming and forestry, but may extend to other rural activities if the need arises.

Encouraging group members to practice nutrient budgeting (with the exception of the forestry industry) will be a priority.

Farm management plans may assist rural property owners to identify appropriate responses to soil erosion issues on their land. The Council may help to develop such plans if requested.

Liaise with the Department of Conservation regarding any soil erosion issues on Crown land managed for conservation purposes.

[R]

15.M.40 Information

Provide information to landowners and resource users to promote recognition of soil quality issues, encourage the adoption of practices and techniques for avoiding unnecessary damage to soil structure and maintain soil nutrients at appropriate levels. Information could be prioritised so that information is provided to those landowners and resource users on the most vulnerable soils.

The Council will promote the use of the Visual Soil Assessment tool to enable resource users to monitor soil quality on their own properties.

[R]

15.M.41 Advocate

Communicate to the manufacturers and suppliers of fertilisers the role they have in strengthening education and providing information on nutrient budgeting, with a view to minimising the likelihood and potential effects of excessive fertiliser application on soil and water quality.

[R]

15.M.42 Codes of practice and industry guidelines

Advocate to rural industry groups that they, locally or nationally, prepare and/or adopt codes of practice or other guidelines, where not already in place, aimed at reducing the effects of rural land uses on soil quality. This could include the Code of Practice for Nutrient Management developed by the New Zealand Fertiliser Manufacturers' Research Association.

[R]

15.M.43 Reserve management plans

The Council will continue to manage farming and other activities on the Wither Hills Soil Conservation Reserve through a management plan prepared under the Reserves Act 1977. This plan clearly sets out soil conservation objectives that influence the nature of any lease to use the land for farming purposes through lease conditions.

[R]

15.M.44 Works

The Council will continue to maintain soil conservation works within the Wither Hills Soil Conservation Reserve, in accordance with Rivers and Land Drainage Asset Management Plan.

[R]

15.M.45 Monitoring

Continue to undertake a regional monitoring programme to gather information on soil quality variables. This will enable the Council to identify the effects of land use activities and practices on soil quality. The monitoring programme is designed to ensure that information is gathered from representative soil types across Marlborough and reflects the nature and intensity of the predominant land uses. The programme includes soil intactness monitoring to establish the extent of accelerated soil erosion. The results will help the Council to identify those soils most vulnerable to degradation and allow the application of the above methods to be prioritised.

Undertake monitoring of the effect of specific land disturbance activities and land use changes on the soil resource. This can be implemented through monitoring required as a condition of resource consent or through state of the environment monitoring. Monitoring the effects of forest harvest activities in the coastal environment of the Marlborough Sounds is a priority.

Issue 15G – The use, storage, transportation and disposal of hazardous substances creates the potential for the contamination of soil if the hazardous substances are released into the environment.

Hazardous substances are a part of our everyday lives. Activities that use, store or transport hazardous substances include:

- manufacturing or processing industries (e.g. timber treatment, dry cleaning, spray painting, engineering, boat building and repair);
- rural industries (e.g. pest control);
- domestic activities (e.g. household cleaning, house construction, maintenance and repair); and
- transport related activities (e.g. storage, handling and movement of hazardous substances).

Common examples of hazardous substances are: petroleum products, such as petrol, diesel, LPG, oils and solvents; household chemicals such as bleaches, pesticides, paints, adhesives and fuels; and chemical products such as acids, alkalis, pesticides and herbicides.

Due to the risk they pose to the environment, hazardous substances are usually carefully stored, transported and used in a manner consistent with manufacturer directions. However, there is a risk that inappropriate use, storage, transportation or disposal of hazardous substances can result in them being released into the surrounding environment. That environment is usually (at least initially) the surrounding soils.

In a limited number of instances, soil contamination has already occurred due to the historic use or disposal of hazardous substances. Examples include old sheep dip sites, sites at which fuel has been stored in underground tanks, areas where persistent pesticides have been used intensively (e.g. orchards) and the uncontrolled disposal of coal ash from boilers. Contaminated sites create a significant risk to the environment and community health.

Soil contamination can severely limit the ability to safely use a piece of land and therefore it is important to manage the risk of adverse effects on the soil resource arising from past inappropriate use, storage, transportation and disposal of hazardous substances. The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (NESCS) provides a comprehensive response to managing the risk to human health through the use and development of contaminated sites. The following provisions are designed to complement the NESCS and focus on the provision of information to allow the NESCS to operate efficiently and effectively.

[RPS, R]

Objective 15.5 – Existing and foreseeable uses of the soil resource are not reduced as a result of soil contamination.

Direct or indirect exposure (e.g. through the consumption of crops and grazing animals) to a hazardous substance that has contaminated the soil has the potential to cause adverse health effects. Soil contamination can therefore restrict the use of soils for productive and residential purposes both now and into the future. This objective recognises the significant constraint to resource use that soil contamination creates and seeks to retain the potential for current and future generations to use the land.

[RPS, R]

Policy 15.5.1 – Primarily rely on regulations promulgated under the Hazardous Substances and New Organisms Act 1996 to ensure hazardous substances are used, stored and transported in an appropriate manner.

The Hazardous Substances and New Organisms Act 1996 (HSNO) states the minimum controls for the use, storage, transportation and disposal of all hazardous substances throughout New Zealand. Although the Council is able to impose additional and/or more stringent requirements, it is satisfied that the requirements imposed by HSNO regulations are sufficient to minimise the potential for inadvertent release of hazardous substances into the environment.

Exceptions to this policy include:

(a) the use and storage of hazardous substances in groundwater protection areas and on river beds, due to the vulnerability of the aquifers and rivers to contamination; and

(b) the discharge of hazardous waste to land or water.

In these circumstances, the Council will use its powers under the RMA to impose controls more stringent than the HSNO regulations.

[RPS, R]

Policy 15.5.2 – Record known contaminated sites and other sites that may be contaminated due to past land use management practices, and make this information available to the public.

Soil contamination creates a risk to human health and can therefore constrain development options on land and properties. It is important that current or potential owners are made aware of any known or potential soil contamination. To assist this process, the Council maintains a "Listed Land Use Register" (the Register), which records known or potentially contaminated sites. Such awareness by the Council does not extend to all historic land use activities and management practices due to the passage of time and incomplete records. Other potentially contaminated sites will be added to the Register as the Council becomes aware of them.

The Ministry for the Environment's Hazardous Activities and Industries List (HAIL) is used as the basis for determining the potential for a piece of land to be contaminated by past land use activities and/or management practices. The information on the Register is made available to the public so that individuals can make informed decisions about the ongoing use of the land or any proposed new use of the land. The Register can also be used as a basis for applying Clause 6(2) of the NESCS. Any site included on the Register can be considered a "piece of land" for the purpose of the NESCS.

[RPS, R]

Policy 15.5.3 – Screen all sites on the Listed Land Use Register for the risk they pose to human health and/or the surrounding environment.

A majority of the sites on the Register are identified as potentially contaminated and are included on the basis of HAIL. However, the risk of human health effects or adverse effects on the environment is unclear. For this reason, the Council will progressively screen those sites on the Register to determine the likely risk that the contaminants pose to human health and/or the surrounding environment. The degree of risk and the reasons will be recorded on the Register.

[RPS, R]

Policy 15.5.4 – Investigate sites assessed through Policy 15.5.3 as being of high risk to community health and/or the surrounding environment and, depending on the outcome of those investigations, consider the need for site management.

Although the NESCS manages the human health effects of contaminated sites in the event of changes in land use, the current policy also recognises that the Council can assist in managing sites that create a high risk to human health or the environment in other circumstances. The Council will progressively investigate sites on the Listed Land Use Register screened as high risk to substantiate (to the extent that it can) the nature and degree of contamination and the potential for adverse effects. The information collected will be shared with landowners and resource users so that there is a clear understanding of the risks to human health and the surrounding environment.

In circumstances where the NESCS does not apply, the Council will take a lead role in co-ordinating any site management, including landowner liaison. This role is important given the potential costs associated with management for landowners and given that the contamination is often a legacy of historic activities undertaken by previous landowners.

Management will be specific to the site and will be determined by the following factors:

(a) the type of contaminants;

(b) the degree of contamination;

(c) the availability and practicality of appropriate technology for management, including recognition of technical and financial constraints;

(d) existing and likely future uses of the site;

(e) surrounding land uses;

(f) national standards, guidelines, or both; and

(g) the potential for adverse environmental and public health effects, including the potential for off-site or downstream effects.

In the worst case scenario, where the nature of the soil contaminants represents a significant hazard, where there are pathways for the contaminants to enter into the surrounding environment and where there are sensitive receptors in that environment, remediation of the site may be required.

[R]

Policy 15.5.5 – Establish a response capability to deal with spills of hazardous substances.

In the event that hazardous substances are accidentally or deliberately released into the environment, it is important that there is the capability to contain the extent of the spill and subsequently clean-up the site. Several agencies are potentially involved in any spill event, including the Council, Fire Service, Police and (in the coastal marine area) Maritime Safety. An ad hoc response from each agency creates the potential for ineffective containment and for soil contamination to occur over a wider area than if the spill was effectively contained. It is important therefore that the actions of each agency in responding to a spill are co-ordinated. This is especially the case considering the risks posed by the volume of goods transported to and through Marlborough on State Highway 1.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[RPS, R]

15.M.46 Listed Land Use Register

The Council maintains a register of all known contaminated sites and other sites that may be contaminated due to historic land use management practices. All sites on the Register have been classified as unverified HAIL, verified HAIL, acceptable, contaminated or remediated/managed. Additions will be made to the Register over time as further information is received as a result of Council and private investigations.

The Register assists with the implementation of the NESCS, especially in terms of establishing whether land subject to land use change is a "piece of land" to which the NESCS applies (in terms of Clause 5(7) of the NESCS). However, the Register is not definitive in this regard and a preliminary site investigation may still be required to establish the potential for historic contamination of site soils (and whether the NESCS applies).

[RPS, R]

15.M.47 Information

Property specific information held on the Register will be available to the public through the issue of LIMs, the creation of new titles (i.e. through consent notice), inclusion of the Register on the Council website or general enquiry.

The Council will make available the HAIL List on the Council website to assist resource users in establishing the potential for historic contamination of site soils. Other Ministry for the Environment publications relevant to the implementation of the NESCS will also be available via the Council website.

[R]

15.M.48 Investigations

The Council will screen sites on the Listed Land Use Register (the Register) to determine the risk to community health and the surrounding environment. High risk sites will then be investigated further. Given the number of sites on the Register, this assessment work will occur progressively over time.

Any detailed investigations for contaminated land must be undertaken by a qualified and experienced practitioner, in accordance with Contaminated Land Management Guidelines No. 5 published by the Ministry for the Environment.

[RPS, R]

15.M.49 Management plans

The Council will take the lead role in co-ordinating the management of high risk contaminated sites, including any remediation efforts. This may involve further site investigation to establish the nature and extent of contamination, identifying and applying for central government funding sources for remediation, management of remediation efforts and monitoring of relevant environmental parameters. The nature of the management of any high risk contaminated site will be documented in a management plan.

[R]

15.M.50 Spill Response Contingency Plan

A Spill Response Contingency Plan will be developed collaboratively by the Council, Fire Service, Police and Marlborough Roads. The Plan will identify the methods to be used to contain and clean up any spill of hazardous substances, the role of each agency in implementing these methods and communication between the agencies. In this way, the Plan will ensure that response actions are effective and the potential for soil contamination caused by spills is minimised.

Anticipated environmental results and monitoring effectiveness

The following table identifies the anticipated environmental results of the water, air and soil quality provisions of the MEP. Unless otherwise specified, the anticipated environmental results are ten year targets. A series of indicators that will used to monitor the effectiveness of the water quality provisions for each anticipated environmental result.

Anticipated environmental result	Monitoring effectiveness
15.AER.1 Water quality in Marlborough's rivers, lakes and wetlands is suitable to support and sustain swimming, fishing, aquatic ecosystems and customary harvesting.	The quality of water in all surface waterbodies routinely monitored is classified as good, very good or excellent. The annual median nitrate concentration in each Freshwater Management Unit is <1 milligram nitrate-nitrogen per litre and the annual 95th percentile concentration is <1.5 milligrams nitrate-nitrogen per litre. The annual median ammonia concentration in each Freshwater Management Unit is <0.03 milligrams ammoniacal nitrogen per litre and the annual maximum concentration is <0.05 milligrams ammoniacal nitrogen per litre. The annual median *E. coli* level in each Freshwater Management Unit is <260 per 100 ml. The 95th percentile *E. coli* level in waterbodies valued for primary contact recreation is <540 per 100 ml. All freshwater bathing sites are graded either good or very good, in accordance with the Ministry for the Environment's Microbiological Water Quality Guidelines for Marine and Freshwater Recreational Areas. The annual median values for nitrate in the Wairau Aquifer and in groundwater upstream of the Waihopai River confluence do not exceed 7.2 parts per million. Water quality which was degraded is enhanced so that the waterbodies can support natural and human use values. Catchment enhancement plans are developed and implemented. The number of point source discharges directly to freshwater, other than stormwater discharges, do not increase. No discharges into water that breach water quality standards set in the MEP. Stormwater Management Area Plans are developed for all stormwater catchments that discharge into waterbodies and coastal waters with degraded water quality.

Anticipated environmental result	Monitoring effectiveness
15.AER.2 Water quality in Marlborough's coastal waters is suitable to support and sustain swimming, food gathering and marine ecosystems.	All coastal water bathing sites are graded either good or very good, in accordance with the Ministry for the Environment's Microbiological Water Quality Guidelines for Marine and Freshwater Recreational Areas. With the exception of regionally significant infrastructure, there are no discharges of human sewage into the coastal waters of the Marlborough Sounds. The number of point source discharges directly to coastal water, other than stormwater discharges, do not increase. No discharges into water that breach water quality standards set in the MEP.
15.AER.3 Water quality in Marlborough's aquifers is suitable for drinking.	The annual median values for the following parameters comply with the New Zealand Drinking Water Standards 2005 (Revised 2008) for each aquifer routinely monitored: • nitrate • *E. coli* No discharges into groundwater that breach water quality standards set in the MEP.
15.AER.4 The quality of air is safe to breath.	Compliance with the ambient air quality standards of the NES.
15.AER.5 Measured downward trends in the winter concentration of PM_{10} in Blenheim.	The average winter concentration of PM_{10} at Redwoodtown is 37 mg/m^3 or less. The average winter concentration of PM_{10} at Middle Renwick Road is 27 mg/m^3 or less. Numbers of open fires and wood burning appliances being replaced with cleaner heating methods. The number of illegal fires.

Anticipated environmental result	Monitoring effectiveness
15.AER.6 A reduction in the nuisance and health effects resulting from the discharge of contaminants to air.	A reduction in the number of complaints regarding smoke and spraydrift.
15.AER.7 An increase in knowledge of the state of Marlborough's air quality.	Ambient monitoring of air pollutants throughout Marlborough, including: • background concentrations of PM_{10} in Picton are established; • records of agrichemical use allow the cumulative effects of agrichemical use to be established through modelling; and • a monitoring programme to determine the extent of agrichemical spraydrift is established.
15.AER.8 The biological, chemical and physical state Marlborough's soils enables safe and productive use of the soils on an ongoing basis.	The values of the following soil parameters for soils routinely monitored fall within target ranges, as defined by Landcare Research (Landcare Research, 2003): • total carbon; • total nitrogen; • minerisable nitrogen; • soil pH; • Olsen phosphorus; • bulk density; • macro porosity; • aggregate stability; and • trace elements. All potentially contaminated sites recorded on the Listed Land Use Register as at 9 June 2016 are screened for risk within 5 years of the MEP becoming operative. All high risk sites on the Listed Land Use Register identified as a result of screening are investigated. A spill response contingency plan is completed within one year of notification of the MEP.

Anticipated environmental result	Monitoring effectiveness
15.AER.9 Increase in knowledge of Marlborough's soil resource.	A soil intactness report is produced every seven years or when new aerial photography is available across the District. The state of Marlborough's soil resource is reported on an annual basis. The number of soil monitoring sites and land uses covered by the soil quality monitoring programme increases. A targeted monitoring programme to assess the adverse effects of forest harvest activities is completed. More is known about the risk of soil contamination across Marlborough.

ANNEXURE 2.J

EDS reasons and relief in comment boxes and/or track-changes.
EDS also seeks any consequential relief, including to the PMEP rules, necessary to respond to the issues raised and give effect to the changes sought.
Provisions not specifically commented on are supported (subject to the changes sought).

Appendix 3

Ecological Significance Criteria for terrestrial, wetland, freshwater, marine and coastal environments

Comment [N1]: To improve clarity and ensure consistency in application the Appendix 3 should be amended to:
- Include a paragraph identifying and explaining the scale of spatial classification used for each environment type.
- Consistently refer to each spatial classification.
- No classification scale has been stipulated for the freshwater environment. This should be included, for example MfE's **New Zealand River Environment Classification.** Classification scales for lakes and wetlands are also required. In the alternative if freshwater environments are captured in ecological districts this should be explained. In lieu of a specific classification scale the amendments proposed refer generally to freshwater environments.

The following provides explanations or guidelines for the application of ecological significance criteria in the assessment of sites.

Rankings within each criterion are: **H** = High; **M** = Medium; **L** = Low. They collectively contribute to an overall ranking, indicating the degree of significance. For a site to be considered significant, one of the first four criteria (representativeness, rarity, diversity and pattern or distinctiveness) must rank **M** or **H**.

The scale at which significance is to be determined depends on the type of environment:

a. Terrestrial environment: the scale of assessment is at the **ecological district** level. [MDC: Insert an explanation of ecological district].
b. Marine environment: the scale of assessment is at the **coastal biographic region** level. This a region that is defined and classified according to visible ecological patterns and the physical characteristics or a geographic or hydrographic area. New Zealand's coastal biographic regions have been identified and mapped by the Ministry for the Environment. Marlborough falls within the South Cook Strait Region.
c. Freshwater environment: [MDC: Insert assessment classification scale]

Representativeness

1. Indigenous vegetation or habitat of indigenous fauna that is representative, typical or characteristic of the natural diversity of the relevant ecological district, coastal biographic region or freshwater environment. This can include degraded examples where they are some of the best remaining examples of their type, or represent all that remains of indigenous biodiversity in some areas.

2. Indigenous vegetation or habitat of indigenous fauna that is a relatively large example of its type within the relevant ecological district, coastal biographic region or freshwater environment.

3. Additionally for the coastal marine area the site is significant if it contains biological features (habitat, species, community) that represent a good example within the biogeographic area.

Comment [N2]: It is not clear what would qualify as a 'good example'. Further guidance is required.

H: The site contains one of the best examples of the characteristic ecosystem types in the region or ecological district or coastal biogeographic ~~area~~ region or freshwater environment~~for sites within the coastal marine area~~.

M: The site contains one of the better examples, but not the best, of the characteristic ecosystem types in the region or ecological district or coastal biogeographic ~~area~~ region or freshwater environment~~for sites within the coastal marine area~~.

L: The site contains an example, but not one of the better or best, of the characteristic ecosystem types in the region or ecological district or coastal biogeographic ~~area~~ region or freshwater environment~~for sites within the coastal marine area~~.

Rarity

4. Indigenous vegetation or habitat of indigenous fauna that has been reduced to less than 20% of its former extent in Marlborough, or relevant ~~land environment~~, ecological district or coastal biogeographic region, ~~or~~ or freshwater environment.

5. Indigenous vegetation or habitat of indigenous fauna that supports an indigenous species that is threatened, at risk, or uncommon, nationally or within the relevant ecological district or coastal biogeographic ~~area~~ region, or freshwater environment ~~for sites within the coastal marine area~~.

6. The site contains indigenous vegetation or an indigenous species that is endemic to Marlborough or that are at distributional limits within Marlborough.

H: The site contains nationally threatened or rare flora, fauna or communities; or the site contains several examples of regionally or locally threatened or rare flora, fauna or communities.

Comment [N3]: It is not clear what 'land environment' is intended to capture. If it captures additional areas outside the stipulated classification scales it should be retained and further guidance given. If not it should be deleted.

M: The site contains one or a few regionally or locally (but not nationally) threatened or rare flora, fauna or communities.

L: The site is not known to contain flora, fauna or communities that are threatened or rare in the ecological district or coastal biogeographic ~~area~~region or freshwater environment, regionally or nationally.

Diversity and pattern

7. Indigenous vegetation or habitat of indigenous fauna that contains a high diversity of indigenous ecosystem or habitat types, indigenous taxa, or has changes in species composition reflecting the existence of diverse natural features or ecological gradients.

H: The site contains an unusually high diversity of species and ecosystem types.

M: The site contains a moderate diversity of species and ecosystem types.

L: The site contains a relatively low diversity of species and ecosystem types.

Distinctiveness

8. Indigenous vegetation or an association of indigenous species that is distinctive, of restricted occurrence, occurs within an originally rare ecosystem, or has developed as a result of an unusual environmental factor or combinations of factors.

H: The site contains any ecological feature that is unique nationally, in the region or in the ecological district or coastal biogeographic region or freshwater environment~~;~~ or it contains several such features that are outstanding regionally or in the ecological district or coastal biogeographic ~~area~~region or freshwater environment.

M: The site contains ecological features that are notable or unusual but not outstanding or unique nationally, in the region or in the ecological district or coastal biogeographic region or freshwater environment ~~area~~.

L: The site contains no ecological features that are outstanding or unique nationally, in the region or in the ecological district or coastal ~~-~~biogeographic ~~area~~region or freshwater environment; i.e. the ecological features are typical rather than distinctive or special.

Size and shape

9. The site is significant if it is moderate to large in size and is physically compact or cohesive.

H: The site is large in size for the region or ecological district or coastal biogeographic region or freshwater environment ~~and is compact in shape~~.

M: The site is moderate in size for the region or ecological district or coastal biogeographic region or freshwater environment ~~and is compact in shape; or the site is relatively large but not very compact or cohesive.~~

L: The site is small in size for the region or ecological district, or coastal biogeographic region or freshwater environment ~~or the site is moderate in size but not at all compact or cohesive.~~

Connectivity/ecological context

10. ~~1~~Vegetation or habitat of indigenous fauna that provides or contributes to an important ecological linkage or network, or provides an important buffering function.

11. A wetland which plays an important hydrological, biological or ecological role in the natural functioning of a river or coastal system.

12. Indigenous vegetation or habitat of indigenous fauna that provides important habitat (including refuges from predation, or key habitat for feeding, breeding, or resting) for indigenous species, either seasonally or permanently.

H: The site is close or well connected to a large natural area or several other natural areas.

Comment [N4]: It is not clear why a compact shape should determine significance. For example and significant area may be large because it extends in a thin ribbon over an extensive area, such as a gully system. This area would not easily be described as compact. In the absence of a valid and robust scientific reason this should be deleted.

Further the Court's have expressed concern with the use of size to determine significance. Further direction is required as to how 'large' 'moderate' and 'small' are to be assessed.

M: The site is in the vicinity of other natural areas but only partially connected to them or at an appreciable distance.

L: The site is very isolated from other natural areas.

Sustainability

13. The site is significant if it is ecologically resilient, i.e. its natural ecological integrity and processes (functioning) are largely self-sustaining.

H: The site can maintain its ecological integrity and processes with minimal human assistance.

M: The site requires some but not much human assistance to maintain its ecological integrity and processes.

L: The site requires much human assistance to maintain its ecological integrity and processes.

Adjacent catchment modification in respect of significant sites within the coastal marine area

14. Catchments that drain large tracts of land can lead to high sediment loading into adjacent marine areas. A site in the coastal marine area is significant if the adjacent catchment is >400 ha and clad in relatively mature native vegetative cover resulting in a long term stable environment with markedly reduced sediment and contaminant run-off compared to developed or modified catchments.

H: The site is dominated by an adjacent land catchment area with stable and relatively mature native vegetation (>400ha) that is legally protected.

M: The site is dominated by an adjacent land catchment area with stable and relatively mature native vegetation (>400ha) with partial or no legal protection.

L: The site is surrounded by an adjacent land catchment area (>400ha) that is farmed, highly modified or has limited relatively mature vegetative cover.

ANNEXURE 2.K

EDS reasons and relief in comment boxes and/or track-changes.
EDS also seeks any consequential relief, including to the PMEP rules, necessary to respond to the issues raised and give effect to the changes sought.
Provisions not specifically commented on are supported (subject to the changes sought).

Appendix 4

Criteria for Determining Significant Adverse Effects

Comment [N1]: Under the RMA effects includes cumulative effects. Appendix 4 should be amended to required application of its criteria in 2 contexts: to the specific effects of the application and to the effects of the application in combination with all other stressors (cumulative effects).

The criteria below assists in determining whether a subdivision, use or development proposal will have significant adverse effects. The criteria shall be applied by the decision maker on resource consents or plan changes.

1. Character and degree of modification, damage, loss or destruction;

2. Duration and frequency of effect (for example long-term or recurring effects);

3. Magnitude or scale of effect (for example number of sites affected, spatial distribution, landscape context);

4. Irreversibility of effect (for example loss of unique or rare features, limited opportunity for remediation, the costs and technical feasibility of remediation or mitigation);

5. Resilience of heritage value or place to change (for example ability of feature to assimilate change, vulnerability of feature to external effects).

The criteria should be used to assess the effects of the proposal in 2 contexts:

A. The specific effects of the proposal itself.
B. The cumulative effects of the proposal in combination with all other relevant environmental stressors.

BEFORE THE HEARINGS PANEL

IN THE MATTER of Schedule 1 of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Marlborough Environment Plan

SUBMISSIONS OF COUNSEL ON BEHALF OF THE ENVIRONMENTAL DEFENCE SOCIETY INCORPORATED

(TOPIC 6: INDIGENOUS BIODIVERSITY)

5 FEBRUARY 2018

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INTRODUCTION

1 New Zealand's biodiversity is in a state of crisis and continuing to decline.[1] Marlborough is no exception.[2] [3] [4] Maintenance of biodiversity and persistence of associated ecosystem function and services must be ensured as the region grows. This will require people to change how they operate and interact with the environment. It will require Marlborough District Council (**Council**) to provide leadership through the Marlborough Environment Plan (**MEP**) and on the ground. In the marine environment the MEP provides this leadership, spearheading the new era of regional council control of destructive fishing methods and techniques. But in respect of the region's terrestrial and fresh water environments it is lacking, despite identifying that severity of human impact on those domains.[5] More is required if Council is serious about halting biodiversity decline.

2 These submissions focus on three key issues:

- Seabed disturbance controls.
- Forestry controls.
- Vegetation clearance rules & SNA mapping.

SUMMARY OF LEGAL FRAMEWORK

3 RMA requirements of Council in respect of Marlborough's biodiversity are clear and directive. Council must (*inter alia*):

a. Safeguard the life-supporting capacity of air, water, soil, and ecosystems (s5(2)(b)).

b. Recognise and provide for the protection (i.e. "*keep safe from harm, injury, or damage*"[6]) of significant indigenous vegetation and significant habitats of indigenous fauna (s6(c)).[7]

c. Have particular regard to the intrinsic values of ecosystems, maintenance and enhancement of the quality of the environment, and any finite characteristics of natural and physical resources (ss7(d), (f), (g)).

d. Control the use of land for the purpose of maintaining and enhancing ecosystems in water bodies (s30(1)(c)(iiia)).

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[1] See generally: *Vanishing Nature: facing New Zealand's Biodiversity Crisis* (2014), Brown M, Stevens T, Peart R.
[2] Issue 8.1 MEP and explanation.
[3] Moore (Minister of Conservation) primary evidence:
[3.1.1] The pattern of indigenous vegetation loss in Marlborough since human arrival mirrors the national picture. Fertile, flat coastal and lowland areas have been extensively cleared, as have lowland rolling hill country. Montane areas have been partially affected. Depletion in the South Marlborough drylands has been more severe than in North Marlborough except on lowland alluvial flats where extensive loss has occurred throughout.
[3.1.2] Remaining natural areas in depleted parts of Marlborough are typically small, fragmented, degraded or in mosaics with induced, semi-natural and exotic vegetation. Most are at risk of continued decline without management.
[4] Moore (Minister of Conservation) primary evidence at sections 5.5, 5.6, 5.7.
[5] Issue 8.1 MEP, explanation.
[6] ***Royal Forest & Bird Protection Society of NZ Inc v New Plymouth District Council*** [2015] NZEnvC 219 at [63].
[7] s6(c) RMA imposes a duty on Council. Adequate protection is required to fulfil that duty: ***Royal Forest & Bird Protection Society of NZ Inc v New Plymouth District Council*** at [63], [64].

e. Maintain indigenous biological diversity (ss30(1)(ga), 31(1)(b)(iiia).[8]

f. Give effect to (implement[9]) the New Zealand Coastal Policy Statement 2010 (**NZCPS**), in particular Policy 11 NZCPS which requires avoidance of adverse effects on some coastal biodiversity and avoidance of significant adverse effects on others. Also relevant are Objectives 1, 2 and Policies 3, 21, 22, 23.

g. Give effect to the National Policy Statement Fresh Water Management (**NPSFM**), in particular Objectives A1 and A2.

SEABED DISTURBANCE CONTROLS

4 Prohibition of activities, including fishing, which disturb the seabed in and around identified Significant Marine Sites (**SMS**) is supported. It is available on the law and the evidence. Fishing pressure within SMSs and the Marlborough Sounds more generally is having adverse impacts on indigenous biodiversity. Because of the its unique values and clear evidence of significant adverse environmental effects of seabed disturbance, the Marlborough Sounds are an appropriate place to start the new era of RMA jurisprudence for regional councils controlling fishing techniques and methods for lawful RMA purposes.

Law

5 RMA control of activities like dredging and anchoring for non-fishing purposes is accepted.

6 In respect of RMA control of fishing, the line between the specific regime of the Fisheries Act 1996 (**FA**) and the more general RMA was identified by Whata J in ***Attorney General v Trustees of the Motiti Rohe Moana Trust***[10] at [109]:[11]

> *…the two Acts can be reconciled by affording primacy to the FA on the utilisation of fisheries resources on the effects of fishing on the biological sustainability of the aquatic environment as a resource for fishing needs. Regional councils then remain tasked with the management of the other effects or externalities of fishing on the environment as defined by that Act [RMA].*

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[8] Council is under an "*obligation"* to maintain indigenous biodiversity: ***Property Rights in New Zealand Inc V Manawatu Wanganui Regional Council*** [2012] NZHC 1272 at [31]; ***Ngati Kahungunu v Hawkes Bay Regional Council*** [2015] NZEnvC 50. The Environment Court considered another s30 function involving "maintenance" of an element of the environment: s30(1)(c)(ii). The s 30(1)(c)(ii) function is control of the use of land for the purpose of the maintenance and enhancement of the quality of water in water bodies and coastal water. The Court found that:
[28] The functions required of a regional council- and indeed its raison d'etre- are those of relatively high-level control of resources having regional, as opposed to immediately local, significance. Section 30 is key to considering what a regional council may do and, more importantly in this context, what it must do….
[29] So, in summary, it is a function of every regional council to control the use of land to maintain and enhance the quality of water in water bodies - ie including water in aquifers, and to control the discharges of contaminants into ·water (again, including water in aquifers). This function is not optional - it is something a regional council is required to do, whether it be difficult or easy.

[9] ***EDS v New Zealand King Salmon Co*** [2014] NZSC 38 at [77].

[10] ***Attorney General v Trustees of Motiti Rohe Moana Trust*** [2017] NZHC 1429, [2017] NZRMA 370 (***Motiti 1st Decision***). Whata J issued a second decision after receiving submissions on form/content of a possible declaration. On receipt of submission Whata J declined to make a declaration: ***Attorney General v Trustees of Motiti Rohe Moana Trust*** [2017] NZHC 1886 (***Motiti 2nd Decision***)

[11] See also ***Motiti 1st Decision*** at [10]-[12].

7 Legislative overlap is addressed in s30(2) RMA. It does not prevent Council performing its s30(1)(ga) statutory function to maintain indigenous biological diversity.[12] Council needs to be satisfied that the exercise of its s30(1)(ga) function is "*demonstrably necessary to maintain biodiversity*"[13]. The question is one of adequacy of evidence.

Evidence

8 Council's analysis and monitoring indicates "*dramatic*"[14] loss of identified SMSs.[15] Between 2011 and 2015 1430.8ha of SMS was lost. Council's technical reports conclude that:[16]

> *…direct physical disturbance has been assessed as one of the main causes of damage to marine benthic biological values, and in particular, dredging and trawling*.

9 These findings are supported by Professor Thrush, for example at [6.1] primary evidence:

> *Physical disturbance to the seafloor by bottom trawl and dredge fisheries are recognised internationally as the major agent of direct human induced change to seafloor biodiversity in marine ecosystems, (Dayton et al. 1995, Thrush et al. 2001, Thrush and Dayton 2002, 2010).*

And specifically in the Marlborough context at [5.10] primary evidence:

> *These [Marlborough's SMSs] are the kinds of habitat that are sensitive to both physical disturbance due to trawlers and dredges and terrestrial sediments…*

10 Professor Thrush's evidence also confirms preventing seabed damage/destruction is necessary to protect SMSs and maintain biodiversity:

> *[6.6] Simply put, we can think of organisms generating habitat structure on the seafloor by either sticking up above the sediment-water interface or by creating burrows and tubes within the sediment. Organisms that stick out of the sediment can provide new, base structure for other organisms to live on, they can provide complex habitats that act as a refuge from predation and they can modify the way water flows across the sediment surface and the sediment-water interface. Organisms that burrow into the sediment can affect the transport of water, organic material and chemicals (such as oxygen and nutrients), and can also affect sediment topography and the erodibility of the sediment. These processes collectively influence ecosystem function, which is what the ecosystem does as an interconnected series of processes. These processes are critical for sustaining individual species, communities, habitats and ecosystem services. They also influence resilience or adaptive capacity of the ecosystem to respond to change.*
>
> *6.7 Many of these habitat-forming organisms on the seafloor are physically damaged or killed by trawling or dredging, or other forms of disturbance. These immediate deleterious effects are exacerbated by the fact that often these habitat-forming species are long-lived, slow growing and have poorly dispersing larvae.*

[12] ***Motiti 1st Decision*** [16].
[13] ***Motiti 1st Decision*** [129], [134].
[14] s42A Report (Maclennan) pg 67.
[15] See summary in s42A Report (Maclennan) pgs 66-68.
[16] s42A Report (Maclennan) pg. 67-68.

6.8 Note that it is not merely the presence of these organisms that is important. To perform these important ecosystem functions their size, density and spatial patterns are critical and they are susceptible to functional extinction with regard to their ability to provide habitat and ecosystem services.[17]

In short, if the seafloor's habitat forming organisms are destroyed, everything else goes with them.

Proposed rule

11 Under the notified MEP Policy 8.3.7 and Rule 16.7.5 prohibit "*Fishing activity that uses a technique that disturbs the seabed within any Ecologically Significant Marine Site*…" (with two exceptions). The s42A Report's response to submissions raises a number of issues:

a. <u>Should prohibition capture other activities with the same effects as fishing by dredging and trawling?</u> The s42A Report concludes yes and extends control to dredging generally, and anchoring. EDS agrees. Professor Thrush's evidence confirms that:

"*Seafloor mining and dredging directly disturbs the sediment and often elevates suspended sediment concentrations…"*[18]

And

"*…managing individual activities while effectively blind to others is likely to lead to ineffectual actions and environmental surprise*"[19].

The s42 Report does not extend prohibition to other potentially destructive activities: reclamation, dumping, seabed, occupation, and sediment discharges on basis of insufficient evidence.[20] Discretionary status is stated to apply in most instances and considered to provide sufficient control. EDS's submits the rules framework needs to be carefully reviewed to ensure discretionary activity applies in all situations.

b. <u>Is prohibited activity status justified?</u> The s42A Report concludes yes. EDS agrees. Prohibited status is available when analysis by a local authority confirms that a specific activity should not be allowed during the currency of a plan.[21] Council's evidence is that prohibition is necessary to recognise and provide for protection of SMSs as required by s6(c) RMA.[22] Professor Thrush's evidence supports that conclusion. Disturbance of the seafloor does not only cause physical damage or death of habitat-forming organisms, but severely compromises reproduction, meaning an activity may not result in immediate total loss but will result in decline in the long term.[23]

c. <u>Should prohibited status apply to some but not all SMSs?</u> The s42A Report recommends prohibited status apply to only Protection Category A and B sites, reducing the number

[17] Thrush primary evidence at [6.11ff] confirms these habitat-forming organisms are present in Marlborough's SMSs.
[18] Thrush primary evidence at [7.2].
[19] Thrush primary evidence at [5.9].
[20] S42A Report (Maclennan pg 70).
[21] ***Coromandel Watchdog v Chief Executive of Ministry of Economic Development*** [2007] NZCA 473.
[22] For completeness, prohibited status does not mean "*forbidden in law*". Instead it means an activity where no consent is available and a plan change is required: ***Coro Watchdog*** at [40]-[41].
[23] Thrush primary evidence at [6.4], [6.7].

of protected sites from 129 to 71.[24]. This is opposed. Mr Maclennan is a planner, not a marine ecologist, and it does not appear any ecological advice has been sort on the proposed change. Professor Thrush expresses concern at the approach to assessing vulnerability that underpins Mr Maclennan's proposal to remove protection from some sites, and disagrees with the conclusion that some identified areas are not vulnerable.[25] In addition, removal of protection from sites that used to be SMSs but are now, subsequent to disturbance, in a compromised and regenerating state does not implement the MEP's objectives. EDS submits that in the absence of further data over precise vulnerabilities of different SMSs a precautionary approach should be taken and prohibited status applied to all SMSs. This gives effect to Policy 3 NZCPS and is consistent with what the Court of Appeal has described as the "*most significant"* justification for prohibited activity status:[26]

"*However, it became apparent during the hearing that neither of the respondents disputed that prohibited activity status may be justified in a number of circumstances which were identified by the interveners. The most significant of these is where a planning authority has insufficient information about a proposed activity and wishes to take a precautionary approach, even though it does not rule out the possibility of that activity being permitted in the future*." (*emphasis added).*

d. Should a controlled buffer zone around SMSs apply? The s42A Report concludes yes.[27] EDS agrees. Mr Maclennan's conclusion is based on advice in Council's expert reports. Professor Thrush provides reasons at paragraph 8.2 of his primary evidence. Both Professor Thrush and Mr Baxter for the Minister of Conservation support the 50m, 100m, 200m buffers proposed in Council's expert report. The s42A Report identifies application of a consent requirement in the buffer area at those distances or alternatively a single buffer distance in which disturbance activities are also prohibited. No preference is expressed. EDS submits this is an issue that would benefit from combined analysis by Council and party experts.

FORESTRY CONTROLS

12 The MEP introduces controls on commercial and woodlot forestry in the Rural Environment Zone and Coastal Environment Zone, including setbacks from the coastal marine area, rivers, lakes, and Significant Wetlands. Setbacks are not only relevant to water quality outcomes but also to maintenance of biodiversity and protection of s6(c) significant natural areas (**SNA**).

Setbacks: Coastal marine area

13 The MEP introduces:

[24] s42A Report (Maclennan) at pgs 71-72.
[25] Thrush primary evidence at [6.14].
[26] ***Coro Watchdog*** at [9] and [34a].
[27] s42A Report (Maclennan) pg 73.

a. A 200m setback from the coastal marine area for permitted commercial and woodlot forestry planting and harvesting in the Rural Environment Zone[28], and permitted woodlot forestry planting and harvest in Coastal Environment Zone[29].

b. A 30m setback from the coastal marine area for permitted commercial replanting in the Coastal Environment Zone.[30]

c. Discretionary activity for new commercial forestry planting and for commercial forestry harvest in the Coastal Environment Zone.[31]

14 EDS supports application of a 200m setback and discretionary status as set out in a and c above.

15 Commencement of the National Environmental Standard – Plantation Forestry (**NES-PF**) on 1 May 2018 does not necessitate roll-back of the 200m threshold. Clause 6 NES-PF confirms ability for plans to include rules more stringent to those of the NES-PF where necessary to (*inter alia*):

a. Give effect to any of Policies 11, 13, 13, 22 NZCPS; or

b. Recognise and provide for protection of significant natural areas.

16 Evidence before the Panel supports Council's approach, confirming forestry as the single biggest contributor of sediment to the Marlborough Sound's coastal waters and as having significant impacts on marine ecosystems:

Professor Thrush at [7.4]:

> *On the other hand, terrestrial sediment is reported as a major contaminant in the Marlborough Sounds (Lauder 1987; Urlich, 2015, Handley et al 2017). In the Marlborough region forestry is the key sediment contributor.*

And at [7.8]:

> *Increased sediment inputs tend to reduce overall ecological diversity. The modification or reduction of available habitats due to elevated sedimentation has been shown to lower diversity and abundance with functional differences, including a reduction in the number of suspension feeders. More generally, the loss of large sediment-dwelling animals, like shellfish, can have important implications for ecosystem function in marine ecosystems.*[32]

Mr Baxter for the Minister of Conservation makes similar observations at [47]-[53].

17 On basis of that evidence, EDS opposes the 30m setback for permitted commercial replanting in the Coastal Environment Zone. The MEP should be incentivising retreat of existing forestry operations to reduce controversy at time of harvest. There is no evidence

[28] Vol 2 Section 3 rules 3.1.6,3.3.6; 3.1.7, 3.3.7; 3.1.8, 3.3.8; 3.1.9; 3.3.9.
[29] Vol 2 Section 4 rules 4.1.7, 4.3.7; 4.1.8, 4.3.8.
[30] Vol 2 Section 4 rules 4.1.6, 4.3.6.
[31] Vol 2 Section 4 rules 4.6.3, 4.6.4.
[32] See full discussion in Thrush primary evidence at [7.6]-[7.10].

that the effects of new trees from replanting are different to those planted as part of a new area or operation. A 200m permitted setback for replanting should apply.

18 Careful control of forestry is required to ensure it does not continue to result in "*a significant increase in sedimentation in the coastal marine area*"[33] or adversely affect important coastal biodiversity or SMSs[34]. Those outcomes would not give effect to the NZCPS or the purpose of the RMA.

Setbacks: Rivers, lakes, Significant wetlands

19 The proposed setback from lakes, rivers, and Significant Wetlands proposed for permitted forestry activities is 8m. This is opposed because:

a. It is inadequate to ensure control of sediment into the coastal marine area as required under the NZCPS and to protect SMSs. As stated by Professor Thrush at [7.3]: "*Coastal ecosystems are by definition coupled to land and thus subject to effects associated with contaminants in freshwater run-off including sediment*s…". Integrated management of waterways and coastal waters is required. Simply setting forestry back from the coastal marine area will not prevent sediment discharge if similar setbacks are not applied to waterbodies funnelling sediment into the ocean.

b. Does not reflect an appropriately precautionary approach to managing Significant Wetlands in a context where "*the systematic draining of Marlborough's wetlands over the last 150 years has had a profound impact on aquatic ecosystems*"[35].

c. Does not reflect an appropriately precautionary approach to managing lakes and rivers in context where SNAs have not been identified.

20 EDS will address this issue in full under the fresh water topic.

VEGETATION CLEARANCE RULES & SNA MAPPING

21 The same vegetation clearance rule is applied across the Rural Environment, Coastal Environment, Coastal Living, Port, and Open Space Zones.

22 Despite undertaking an extensive identification process[36] Council has decided not to map terrestrial SNAs. If this approach is to be retained[37], the MEP's vegetation clearance permitted standards must be set at a point where Council is confident regulatory oversight will be triggered when effects may compromise protection of significant values. In practical terms, this means the permitted standards will need to be more stringent than if there were separate rules for SNAs and indigenous vegetation more generally.

[33] Policy 22(2) NZCPS.
[34] Policy 11 NZCPS, s6(c) RMA.
[35] Vol 1 Section 8 pg 8-4 "Wetlands".
[36] For outline of process see Moore (Minister of Conservation) primary evidence see section 5.2 and [7.3.1]
[37] EDS submits it should not.

23 Protecting SNAs is not optional. S6(c) imposes a duty on Council to keep its SNAs "*safe from harm, injury, or damage*". The suite of tools it selects must be adequate to achieve that outcome.[38]

24 Evidence brought by the Minister of Conservation shows that the mix of voluntary protection and vegetation clearance rules under the current planning framework has not worked. Only 12% of 708 identified sites have received voluntary protection or restoration.[39] Weak clearance rules have facilitated extensive clearance of SNAs.[40]

25 The MEP's vegetation clearance rules as proposed to be amended by the s42A Report do not remedy this failure[41]:

a. Deletion of prohibition on permitted clearance in the Threatened Environment Overlay (**TEO**) removes robust regulatory protection "*over the majority of the most depleted parts of Marlborough*"[42]. It also removes the MEP's tool for identifying and protecting parts of Marlborough that fall under National Priority One, Statement of National Priorities for Protecting Rare and Threatened Biodiversity on Private Land (which captures areas falling under the 'Rarity' significance criterion). This is surprising given the MEP's explicit statement that Objective 8.1 is intended to recognise the National Statement and Priority One is reproduced.[43]

   Mr Maclennan's recommendation in the s42A Report to delete the TEO clause from the vegetation clearance rules is not supported by an ecological analysis of the propriety or effect of the recommendation. The Minister of Conservations ecological analysis of the recommendation is that it would:

   "…have the effect of dramatically amplifying the number of SNAs vulnerable to at least some level of vegetation removal as a permitted activity. The SNAs most vulnerable are those within the most depleted parts of the District which are characterised by being small, fragmented and often degraded. It would also undermine protection from protection from vegetation clearance for the mineral belt, a naturally rare ecosystem which was deliberately added to the TEO to recognise its importance. Another effect would be the removal of the ability to use the TEO to recognise "indigenous ecosystems and vegetation types that are threatened in the coastal environment" (Policy 11a(iii) of the New Zealand Coastal Policy Statement)."

b. The age and size thresholds for permitted clearance are not set at a level that will provide for protection of SNAs because:[44]

[38] ***Royal Forest & Bird Protection Society of NZ Inc v New Plymouth District Council*** at [63], [64].
[39] Baxter (Minister of Conservation) primary evidence at [8.3.2].
[40] Baxter (Minister of Conservation) primary evidence at section 8.5. For example, the SNA clearance depicted in Photo 1 meant the SNA was "*approximately halved, the integrity and resilience of the SNA has been severely compromised and fragmented*".
[41] Mr Moore for the Minister of Conservation concludes at [3.3.4] of his primary evidence: "*Rules that apply outside the TEO in the PMEP are inadequate to protect SNAs from complete or partial clearance and there is nothing in the s42A report (Maclennan, 2017) recommendations to fully address this*."
[42] Moore (Minister of Conservation) primary evidence at [3.3.2].
[43] Vol 1 Section 8, Objective 8.1 pg 8-5.
[44] Moore (Minister of Conservation) primary evidence at [8.7.1].

- *If part of the SNA is comprised of a vegetation type that is not listed amongst those in the rules, it may be cleared as of right, even if it performs an important role in maintaining the ecological integrity of the site and lies within the boundary of the SNA (see para 8.5.5);*

- *It is permitted to clear indigenous vegetation, including forest, up to a range of thresholds, depending on the vegetation type and the zone in which it occurs, even if that vegetation forms part of a SNA.*

Even if the prohibition on clearance in the TEO is retained the current rules would still "*not provide protection for all of them [SNAs] because it does not take into account three of the four criteria used to determine 'significance' "*[45].

c. Permitted clearance for the 'development' of the National Grid provides a blanket exception that is not justified under the National Policy Statement Electricity Transmission when reconciled with the directive provisions in Policy 11 NZCPS and with s6(c) RMA. The exception risks extensive degradation/loss of significant biodiversity values.

d. Failure to include setbacks from rivers, lakes, wetlands, and the coastal marine area ignores evidence of the deleterious environmental effects of sediment, and of the importance of riparian habitat and wetlands.[46]

26 The simple answer is for Council to map terrestrial SNAs and include a new SNA specific rule in the MEP. Another, and likely more restrictive answer, is to revise the vegetation clearance to ensure they are adequate to ensure protection of Marlborough's SNAs as well as to maintain biodiversity generally.

CONCLUSION

27 Marlborough's biodiversity is unique. It is one of five centres of endemism for plants in mainland New Zealand. Its marine ecosystems support numerous threatened, indigenous species like the King Shag and the Hector's dolphin. Council is under an obligation to maintain its indigenous biodiversity and as part of that protect those parts of it that are significant. That obligation exists regardless of whether those objectives are easy or hard. As it stands, the MEP's framework, its suite of regulatory and non-regulatory tools, will not achieve those outcomes. Controls proposed for the marine environment are a strong start and are supported, subject to the changes outlined in these submissions. But those intended to maintain and protect terrestrial and fresh water biodiversity need to be strengthened.

[45] Moore (Minister of Conservation) primary evidence at [8.4.1].
[46] For example: Vol 1 Section 8, Issue 8A explanation:
Pg 8-3: "*Native riparian or riverside vegetation has been largely replaced by exotic willows and shrubs. These modifications have resulted in the loss of native fish species that rely on native invertebrates falling into the water for food."*
PG8.4: "*Wetlands are highly productive environments that can support a diverse range of plants and animals (birds, fish, insects and micro-organisms). They support processes that provide environmental services such as water storage and flood control, nutrient removal, erosion control and water table maintenance. Wetland areas have always been highly valued by Maori as they provide a rich source of traditional resources like food (fish and birds), flax and medicinal plants. Wetlands therefore represent a significant part of Marlborough's natural heritage.".*