



# Proposed Marlborough Environment Plan

## Topic 13 & 19: Resource Quality (Soil) & Land Disturbance

**Hearing dates:** 2 – 4 & 9 July 2018

**S42A Report Writer:** Hannah Goslin

**Conflicts of Interest:** None

**Interim decision:** None

*(Note: A list of conflicts of interest which arose during the process are available to view on the Marlborough District Council Website)*

Abbreviations.....	3
Structure of Decisions.....	4
Resource Quality (Soil) and Land Disturbance.....	6
Policy 15.4.2.....	6
Policy 15.4.4.....	7
Policy 15.5.5.....	8
Method 15.M.50.....	8
Standard 3.3.13.....	10
Cultivation definition.....	10
Definition of ‘Vegetation clearance’.....	12
Vegetation clearance for biosecurity reasons.....	15
Rule 3.3.12.....	15
Cleanfill.....	16
Lake Grassmere.....	17
Rule 22.4.2. and Standard 22.3.6.....	17
Method 15.M.45.....	25
Slope and volume limits.....	25
Setbacks: Cleanfill.....	27

**Abbreviations**

ESMS	Ecologically Significant Marine Site
PMEP	Proposed Marlborough Environment Plan
MDC	Marlborough District Council
WARMP	Wairau/Awatere Resource Management Plan

**Submitter abbreviations**

Hort NZ	Horticulture New Zealand
MEC	The Marlborough Environment Centre Incorporated
MDC	Marlborough District Council
MFIA	Marlborough Forest Industry Association Incorporated
NMDHB	Nelson Marlborough District Health Board
NZTA	New Zealand Transport Agency
Oil Companies	Z Energy Limited, Mobil Oil New Zealand Limited and BP Oil Limited
PMNZ	Port Marlborough New Zealand Limited

## Structure of Decisions

1. It is important that the topic decision is read as a whole together with the tracked change version of the Plan. The decision on each topic contains the reasons for the Panel's decisions. These comprise either adoption of the reasoning and recommendations of the original Section 42A Report or the replies to evidence, or a specific reasoning by the Panel<sup>1</sup>.
2. The tracked change version of the relevant PMEP provisions forms an integral part of the decision. The source of the change in terms of the topic that the subject matter was dealt with is clearly identified in the track changes version of the plan. This records all amendments (additions and deletions) to the notified PMEP provisions made by the Panel.
3. Where the PMEP provisions **remain as notified**, it is because:
  - (a) The Panel has decided to retain the provision as notified for reasons set out in this decision; or
  - (b) The Panel adopted the reasoning and recommendation of the Section 42A Report Writer to retain the provision as notified as recommended in the Reply to Evidence; or
  - (c) The Panel adopted the reasoning and recommendation of the Section 42A Report to retain the provision as notified in the original Section 42A report.
4. Where there is a **change to a provision** within the plan it is because:
  - (a) The Panel has amended a provision for reasons set out in this decision in response to a submission point which the Section 42A report writer(s) does not recommend in their reports; or
  - (b) The Panel adopted the reasoning and recommendation of the Section 42A Report Writer to change the provision to that recommended in the Reply to Evidence; or
  - (c) The Panel adopted the reasoning and recommendation of the Section 42A Report Writer to change the provision to that recommended in the original Section 42A report;  
or

---

<sup>1</sup> (The only exception to that approach relates to the Noise section of the Nuisance topic where the reasoning and recommendations in the responses to Minutes 54 and 59 may have been adopted, rather than the reasoning and recommendations in the Section 42A Report or the Reply to Evidence report. The reasons for that difference in that topic are dealt with in detail at the commencement of the Noise section of the Nuisance topic decision. In respect of that topic the approach to understanding of the individual submission point decisions addressed in paragraphs 13.3 to 13.5 below should be adjusted accordingly to apply references to the Section 42A Report and/or Reply to Evidence in those paragraphs as being references to the responses to Minutes 54 & 59 for that Nuisance topic.)

- (d) A consequential change has been necessary following on from a decision in either a), b) or c).
5. Where there is a **different recommendation** between the Section 42A Report and the Reply to Evidence (i.e., the recommendation by the Section 42A report writer(s) has changed as a result of hearing the evidence of submitters), unless the Panel decision specifically adopts the original report's reasoning and recommendations, the reasoning and recommendations in the (later) reply to evidence has been adopted and it must be taken to prevail.
  6. There are limited circumstances where the Panel has taken the opportunity to give effect to national policy statements or implement national environmental standards. Where this occurs the relevant decision clearly sets out the nature of the change and the reason for the change.
  7. Finally, there are limited circumstances where the Panel has decided that **alternative relief** is more appropriate than that requested by the submitters, but still within the scope of the relief sought. This is recorded in the Panel's decision.

## Resource Quality (Soil) and Land Disturbance

### 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.
8. A number of submitters supported the Policy and its current wording.<sup>2</sup> MFIA and Nelson Forests sought changes to the policy so it did not require avoidance when related to built infrastructure<sup>3</sup>.
9. In evidence at the hearing, Hort NZ also sought an addition to the explanation to highlight the importance of good management practice.

#### Section 42A Report

10. The report writer considers that additional wording to the explanatory text would provide clarity for plan users regarding soil compaction and recommends the following inclusion.

Soil compaction may be necessary in some circumstances, such as providing a stable foundation for a road or building.

11. In response to the evidence of Ms Wharfe at the hearing, the report writer also recommended the following amendments in their Reply to Evidence<sup>4</sup>:

*... The Council will work with rural industry groups to ensure that land management practices and good management practices address the potential for unnecessary soil compaction, accelerated soil erosion... 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. There are a range of codes of practice or guidelines that set out good management practices for rural land uses.*

#### Consideration

12. The Panel consider it is appropriate to make reference to the need for soil compaction in some circumstances and therefore agree with the recommendation of the report writer to include the following:

---

<sup>2</sup> KCSRA, Ravensdown, McoC, Federated Farmers

<sup>3</sup> MFIA (962.100) Nelson Forests (990.244)

<sup>4</sup> Reply to Evidence, pg3

13. ... Soil compaction may be necessary in some circumstances, such as providing a stable foundation for a road or building.
14. The Panel also agree with the recommendation to include specific reference to the range of codes of practice available, however, with this inclusion, the Panel consider the reference to 'and good management practices' leads to unnecessary duplication and therefore this request is rejected.

#### **Decision**

15. The explanatory text to Policy 15.4.2 is amended as follows:

*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. Soil compaction may be necessary in some circumstances, such as providing a stable foundation for a road or building. 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. There are a range of codes of practice or guidelines that set out good management practices for rural land uses.*

#### **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.**

16. Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ (The Oil Companies) seek that Policy 15.4.4(b) is amended to state the following:

*(b) Any industry standards, guidelines and codes of practice that are relevant to the activity;*<sup>5</sup>

**Section 42A Report**

17. The report writer considers that the reference to industry standards is broadly based and would probably include guidelines and codes of practice where they are relevant to a specific land disturbance activity. In her opinion, the relief sought by the submitter may provide clarification for plan users that these guidelines and codes of practice may be relevant in considering land use to create a soil disturbance. The report writer recommends the relief sought be adopted – (b) should be expanded to include reference to ‘guidelines and codes of practice’.

**Consideration**

18. The Panel agrees with the inclusions as recommended by the report writer. Further, the Panel amend, by way of Schedule 1 Clause 16, the preliminary wording of the policy from ‘regard shall be had to’ to ‘have regard to’ as more direct language.

**Decision**

19. Policy 15.4.4 is amended as follows:

*Policy 15.4.4 – In considering any land use consent application to undertake land disturbance, ~~regard shall be had to~~ have regard to:*

- (a) the physical characteristics of the site, including soil type, slope and climate;*
- (b) any industry standards, guidelines and codes of practice that are relevant to the activity; ...*

**Policy 15.5.5**

**Establish a response capability to deal with spills of hazardous substances.**

**Method 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.*

---

<sup>5</sup> The Oil Companies, Kahlia Thomas Evidence, Attachment A, page 1.



20. NZTA supports the policy in part due to the large volumes of goods transported around Marlborough on the State Highway.<sup>6</sup> It seeks the following amendment to its involvement in the notification process, along with the Council and the Fire Service, the inclusion of the words 'the New Zealand Transport Agency road controlling authority' in the first paragraph of the explanation, and the inclusion of 'the State Highway network' in the second paragraph of the explanation.<sup>7</sup>

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

21. The report writer recommended the following amendment to the explanation to Policy 15.5.5:

*Several agencies are potentially involved in any spill event, including the Council, Fire Service, Police, the New Zealand Transport Agency road controlling authorities [sic] 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 State Highway ~~±~~ network.*

22. And the following amendment to Method 15.M.50:

*A spill response contingency plan will be developed collaboratively by the Council, Fire Service, Police, ~~and~~ Marlborough Roads and the New Zealand Transport Agency road controlling authority. 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.*

#### **Consideration**

23. The provisions should also require involvement of the NZTA in the notification of and response to spills. It is one of the major parties to this type of activity.
24. The Panel accepts the recommendation of the report writer for both the policy and the method, except for the deletion of reference to the recommended 'road controlling authority'. The term 'road controlling authority' as it is presently written in the Section 42A Report is qualified by the reference to New Zealand Transport Agency whereas the NZTA is the

---

<sup>6</sup> NZTA (1002.82).

<sup>7</sup> NZTA (1002.84).

only transport agency with the authority to act in spill events and (in the coastal marine area), Maritime Safety, along with the Council, Police and Fire Service.<sup>8</sup>

#### **Decision**

25. The explanation to Policy 15.5.5 is amended as follows:

*Several agencies are potentially involved in any spill event, including the Council, ~~Fire Service~~ Fire and Emergency New Zealand, Police, the New Zealand Transport Agency, Marlborough Roads 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 State Highway 1 network.*

26. Method 15.M.50 is amended as follows:

*A spill response contingency plan will be developed collaboratively by the Council, ~~Fire Service~~ Fire and Emergency New Zealand, Police, ~~and~~ the New Zealand Transport Agency 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.*

### **Standard 3.3.13**

#### **Cultivation definition**

**Cultivation means breaking up or turning soil such that the surface contour of the land is not altered.<sup>9</sup>**

27. Federated Farmers seeks (inter alia) the recognition that cultivation involving ‘minimum tillage’ does not create the same potential for environmental effects. Mr Sycamore requests that the slope and setback provisions relate only to cultivation (‘mechanical cultivation’) and a new definition for ‘minimum tillage’ is requested to be incorporated into the PMEP. The following definition is proposed:<sup>10</sup>

*Minimum Tillage: is a tillage method that does not turn the soil over. It is contrary to intensive tillage, which changes the soil structure.*

---

<sup>8</sup> Section 42A Report, pages 21-22.

<sup>9</sup> PMEP, Volume 2, Chapter 5, page 25-6.

<sup>10</sup> Federated Farmers, Darryl Sycamore Evidence, Section 42A Report, Reply to Evidence, paragraph 110.

28. Hort NZ requests that the definition of cultivation is amended to include ‘ancillary erosion and sediment control measures’.<sup>11</sup>

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

29. In the Addendum, the report writer recommended the following amendments to the definition:

*Cultivation means breaking up, turning and mounding of soil ~~such that the surface contour of the land is not altered~~ in preparation for sowing, planting or harvesting a crop or pasture. But excludes the recontouring of land.*<sup>12</sup>

30. The Section 42A Report considers that 3.3.13.5 is important in order to retain productive top soil from erosion and loss of sediment to water bodies.<sup>13</sup>
31. The report writer did not therefore support Hort NZ’s submission. Erosion and sediment controls are mitigation measures employed to comply with the relevant activity standards, therefore their inclusion in a definition is not necessary. If Standard 3.3.13.5 cannot be met then resource consent would be required and industry standards would be considered as part of that process, as set out in Policy 15.4.4, and therefore the relief being sought is already provided in that policy.<sup>14</sup>
32. In the report writer’s opinion the cultivation methods proposed to be excluded by Federated Farmers have the potential to result in adverse effects on soil quality. Some methods such as direct drilling have a lower impact than other methods of cultivation. There may be periods prior to or following cultivation taking place where topsoil could be lost and sediment eroded to surface water and excluding the management of this does not accord with the policy direction of the PMEP. The report writer does not recommend the relief sought by the submitter is adopted, and recommends the definition of cultivation remains as notified.<sup>15</sup>

#### **Consideration**

33. The submitter sought recognition that cultivation involving ‘minimum tillage’ does not create the same potential for environmental effects.
34. The Panel considered that it would be appropriate to include minimum tillage in the recommended exemption so that it reads ‘But excludes minimum tillage and the recontouring of the land’.

---

<sup>11</sup> Hort NZ, Lynette Wharfe Evidence, paragraph 6.2.

<sup>12</sup> Section 42A Report, Addendum, recommendation paragraph 36.

<sup>13</sup> Section 42A Report, paragraph 143.

<sup>14</sup> Section 42A Report, paragraph 145.

<sup>15</sup> Section 42A Report, paragraph 128.

35. A definition should be added for 'minimum tillage' to Chapter 25 as follows:

*means a tillage method that does not turn the soil over and includes direct drilling.*

**Decision**

36. The definition of 'Cultivation' is amended as follows:

***Cultivation*** means breaking up, ~~or turning~~ and mounding of soil such that the surface contour of the land is not altered in preparation for sowing, planting or harvesting a crop or pasture.  
But excludes minimum tillage and the recontouring of land.

37. A new definition 'Minimum tillage' is added to Chapter 25 Definitions as follows:

***Minimum tillage*** means a tillage method that does not turn the soil over and includes direct drilling.

**Definition of 'Vegetation clearance'**

*Vegetation clearance means the cutting, destruction or the removal of all forms of vegetation including indigenous or exotic plant vegetation by cutting, burning, cultivation, crushing, spraying or chemical treatment.*

38. Hort NZ and Federated Farmers oppose the definition of 'vegetation clearance' as the definition includes 'cultivation' which is defined and provided for in the PMEP separately.<sup>16</sup> Beef & Lamb opposes the inclusion of 'spraying or chemical treatment' in the definition due to the potential for lower risk activities being unintentionally restricted.<sup>17</sup> NZTA opposes the definition and consider there is potential for the definition to capture the mowing of grass and domestic gardening activities.<sup>18</sup> MDC supports the definition but seek it is amended to clarify that vegetation clearance excludes commercial forestry harvesting, carbon sequestration (non-permanent) forestry harvesting and woodlot forestry harvesting.<sup>19</sup> J Hickman and G Mehlhopt support the definition in part, but seeks it is amended to provide for routine farm operations to occur without resource consent.<sup>20</sup>
39. NZTA did not provide specific detail in its submission for an amended definition.

**Section 42A Report**

40. The report writer agrees with NZTA that the notified definition has the potential for some activities to be unintentionally captured by the definition of 'vegetation clearance' as it applies to standards related to both non-indigenous and indigenous vegetation clearance.

<sup>16</sup> Hort NZ (769.99, .132), Federated Farmers (425.654, .727).

<sup>17</sup> Beef & Lamb (459.65).

<sup>18</sup> NZTA (1002.265).

<sup>19</sup> MDC (91.206).

<sup>20</sup> J Hickman (455.69), G Mehlhopt (456.69).

41. The report writer states:

*While cultivation is broadly defined as ‘vegetation clearance’ there are specific standards included in the PMEP which provide for cultivation. Accordingly, when undertaking a rule assessment to assess cultivation, the most specific rules would be subject of assessment (that is, the cultivation standards would be assessed over the standards providing for vegetation clearance). Further, the definition of ‘vegetation clearance’ applies to ‘indigenous vegetation clearance’ as well as ‘non-indigenous vegetation clearance’. As such, any amendment made to the definition may unintentionally impact the activities captured by the indigenous vegetation clearance standards. On this basis, the report writer does not support the submissions made by Hort NZ and Federated Farmers.*

42. Nor does the report writer support the submission made by Beef & Lamb due to the application of the ‘vegetation clearance’ definition to both ‘indigenous’ and ‘non-indigenous’ vegetation clearance. As such, the report writer states that any amendments made to the definition in the Section 42A Report may unintentionally impact the activities captured by the indigenous vegetation clearance standards. Non-indigenous vegetation clearance undertaken via spraying or chemical treatment has the potential to result in effects similar to those arising from other methods of vegetation clearance, therefore management of potential adverse effects through the standards is required to give effect to Objective 15.4 and policies 15.4.2 and 15.4.3.
43. MDC considers its proposed amendment would be particularly useful in zones where forestry is not permitted. The report writer agrees with the additional wording sought by MDC as it would assist plan users in determining whether vegetation clearance or woodlot forestry harvesting standards apply to a particular activity. Accordingly, the report writer recommends the relief sought by MDC is adopted.<sup>21</sup>
44. The report writer recommends the definition of ‘vegetation clearance’ be amended as follows:<sup>22</sup>

***[Vegetation clearance means] the cutting, destruction or the removal of all forms of vegetation including indigenous or exotic plant vegetation by cutting, burning, cultivation, crushing, spraying or chemical treatment. For clarity, it does not mean***

<sup>21</sup> Section 42A Report, paragraphs 156-157, 159.

<sup>22</sup> Section 42A Report, paragraph 169.

commercial forestry harvesting, carbon sequestration (non-permanent) forestry harvesting and woodlot forestry harvesting.

45. In evidence, NZTA seeks an amendment to the definition of 'vegetation clearance' which excludes mowing and domestic gardening activities which are unlikely to result in any discernible adverse effects. The following relief is proposed to be included as part of the 'vegetation clearance' definition:<sup>23</sup>

*For clarity, where it does not relate to indigenous vegetation, this excludes mowing and domestic gardening activities.*

46. Given the number of amendments to vegetation clearance, the report writer provided an alternative strategy for clarity as follows:<sup>24</sup>

*[Vegetation clearance] means the cutting, destruction or the removal of all forms of vegetation including indigenous or exotic plant vegetation by cutting, burning, cultivation, crushing, spraying or chemical treatment.*

*The definition of vegetation clearance does not mean:*

*(a) Commercial forestry harvesting, carbon sequestration (non-permanent) forestry harvesting and woodlot forestry harvesting; or*

*(b) The removal of species listed in the Biosecurity NZ Register of Unwanted Organisms or the Marlborough Regional Pest Management Strategy; or*

*(c) Where it relates to non-indigenous vegetation, the definition of vegetation clearance excludes mowing and domestic gardening activities.*

#### **Consideration**

47. The Panel agrees to exclude mowing and domestic gardening activities from the definition.

#### **Decision**

48. The definition of 'Vegetation clearance' is amended as follows:

***Vegetation clearance** means the cutting, destruction or the removal of all forms of vegetation including indigenous or exotic plant vegetation by cutting, burning, cultivation, crushing, spraying or chemical treatment but does not include:*

*(a) commercial forestry harvesting, carbon sequestration forestry harvesting and woodlot forestry harvesting;*

---

<sup>23</sup> NZTA, Section 42A Report, Reply to Evidence, Kathryn Barrett Evidence, page 9.

<sup>24</sup> Reply to Evidence, pages 10-12

(b) mowing and domestic gardening activities where they relate to non-indigenous vegetation.

### **Vegetation clearance for biosecurity reasons**

#### **Rule 3.3.12**

49. Hort NZ seeks an exemption to the rules listed in the case of clearance for biosecurity reasons.
50. There have been instances where there has been a need to remove vegetation in response to a biosecurity incursion but the district plan rules have placed regulatory barriers to the rapid removal of such vegetation. For instance, removing vegetation in riparian areas would require resource consent. Hort NZ seeks that there is the ability to remove such vegetation without the need to obtain consent as time is important when an incursion occurs.
51. Hort NZ requests that an additional standard is included in Rule 3.3.12 which provides an exemption from permitted activity standards 3.3.12.2, 3.3.12.4, 3.3.12.7, 3.3.12.8 if the clearance is for biosecurity purposes.<sup>25</sup>

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

52. In the context of the submissions earlier, the report writer agrees to the relief sought by Hort NZ requesting a new standard, as opposed to the proposed- change to the definition of 'Vegetation clearance' in the Reply to Evidence. The report writer recommends the definition of 'Vegetation clearance' be amended to exclude the removal of species listed in the Biosecurity NZ Register of Unwanted Organisms or the Marlborough Regional Pest Management Plan.<sup>26</sup>

#### **Consideration and decision**

53. The relief requested as a new standard (as opposed to the recommended change by the report writer to the definition of 'vegetation clearance') is accepted by the Panel. However, the Panel considered the wording would be better positioned directly under the 3.3.12 heading and to read as follows:

Standards 3.3.12.2, 3.3.12.3, 3.3.12.4, 3.3.12.7, 3.3.12.8 do not apply in the case of clearance of species listed in the Biosecurity New Zealand Register of Unwanted Organisms or the Marlborough Regional Pest Management Plan.

54. For consistency, the same note is inserted under the following headings 4.3.11, 7.3.8, 13.3.19, 14.3.10, 15.3.18, 17.3.3, 18.3.4, 19.3.4, 22.3.9

---

<sup>25</sup> Hort NZ, Lynette Wharfe Evidence, paragraphs 7.17-7.19.

<sup>26</sup> Section 42A Report, Reply to Evidence, pages 10-11.

## Cleanfill

55. A number of filling standards in the PMEP specifically apply to the filling of land with cleanfill material. NMDHB for example supports the current cleanfill standards and seeks an additional permitted activity standard is included which specifies acceptable cleanfill material in accordance with the Ministry for the Environment's 'A Guide to the Management of Cleanfills' (2002).<sup>27</sup>
56. Fulton Hogan, S MacKenzie, PMNZ and Federated Farmers oppose the notified definition of cleanfill and the standards as there is no definition of commercial cleanfill in the PMEP which is a restricted activity by virtue of Standard 3.3.16.1 and similar standards in other zones.<sup>28</sup> The MDC opposes the definition of cleanfill for the same reasons.<sup>29</sup>

### Section 42A Report

57. The report writer in her consideration, notes:
- The national definition of cleanfill, appropriate waste acceptance criteria, and advises best practice methods for managing cleanfill, adopting the recommendations in the MfE guidelines.
  - The standards authorizing 'the filling of land with cleanfill' in the PMEP are consistent with MfE's guidelines.
  - There are criteria which enable small-scale cleanfilling to occur and standards requiring water and erosion control measures to be in place.
  - Other standards restrict filling where this occurs within close proximity to an abstraction point for a drinking water supply and Soil Sensitive Area identified as loess soils.
  - Policy 15.4.4(b) requires regard to be had to any industry standards relevant to the activity when considering an application for a land disturbance activity. The report writer considers that if such an application be made this policy would signal that the Council would be required to have regard to the most recent guidelines as part of the consenting process. The report writer does not consider an additional standard requiring cleanfilling to be in accordance with the guidelines is required.

---

<sup>27</sup> NMDHB (280.48, .45, .46, .44, .43, .40).

<sup>28</sup> Fulton Hogan (717.72, .75, .79) S MacKenzie (1124.24, .25) PMNZ (433.152, .170, 433.194), Federated Farmers (425.559, .740).

<sup>29</sup> MDC (91.150, .151).



- She supports the industry submitters seeking that the standard restricting the use of commercial cleanfill for filling of the land is deleted from the Plan, and recommends all standards requiring filling *not to use commercial cleanfill* be deleted from the PMP.
- As a result of this conclusion, the report writer does not consider a definition for non-commercial cleanfill, as requested by MDC, is required.<sup>30</sup>

#### **Consideration and decision**

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

#### **Lake Grassmere**

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

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

60. The relevant standards and terms are as follows:

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

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

*Matters over which the Council has reserved control:*

22.4.2.3. *The excavation of test pits;*

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

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

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

61. Matter of control 22.4.2.1 requires any excavation greater than 1.5 metres in depth in Lake Grassmere to obtain resource consent as a discretionary activity.
62. Dominion Salt opposes Standard 22.4.2 which provides for a controlled activity status for the excavation of land exceeding 500 mm depth.<sup>31</sup> The submitter seeks that the standard is reinstated as a permitted activity as is the case in WARMP.

---

<sup>30</sup> Section 42A Report, paragraphs 231-235.

**Section 42A Report**

63. The report writer reviewed the rule structure in WARMP and agrees that the excavation of land within 100 metres of the zone boundary, not exceeding 500 mm in depth, is able to be adequately managed through the permitted activity standards without the need to proceed through a resource consent process to impose further conditions. In reviewing the permitted activity standards, the report writer recommends an additional permitted activity standard is included which restricts the excavation of land within the Lake Grassmere Ecologically Significant Marine Site, so as to achieve the outcomes of the PMEP that relate to such significant sites.
64. The report writer identifies two further errors in the drafting of these standards which are able to be addressed within the scope of the submission received. Matter of control 22.4.2.1 requires any excavation to not exceed 1.5 metres in depth. The current WARMP standard framework requires any excavation greater than 1.5 metres in depth in the Lake Grassmere Zone to obtain resource consent as a discretionary activity. The report writer recommends an additional standard limiting the maximum excavation depth in the zone to 1.5m is included in standard 22.3.6. Any excavation within the zone deeper than 1.5 metres below ground level will require assessment via a resource consent process to impose further conditions if necessary. Further, Standard 22.3.6.2 requires excavation to not occur within 8 metres of a lake. As the entire area has been identified as a 'lake' this standard would limit any excavation from occurring within the zone without resource consent. Accordingly, the report writer recommends 'lake' is omitted from Standard 22.3.6.2.<sup>32</sup>
65. The report writer recommends the following changes to Rules 22.3.6 and 22.4.2 to remedy drafting errors in the PMEP:

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

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

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

66. The following standards be added to Rule 22.3.6:

*22.3.6 Excavation*

---

<sup>31</sup> Dominion Salt (355.16).

<sup>32</sup> Section 42A Report, paragraphs 197-198.

...

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

...

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

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

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

67. In evidence, Dominion Salt agrees with the report writer's recommendations but seeks further relief in relation to Standard 22.3.6.8 which currently states: 'Excavation must not occur within an Ecologically Significant Marine Site'.
68. Dominion Salt wishes to continue to remove silt which drops out of suspension from water in the lake within the Ecologically Significant Marine Site (ESMS 8.3). Dominion Salt advised at the hearing the locations where limited work is sought to be undertaken within ESMS 8.3 in the Lake Grassmere Salt Works Zone. According to Mr Davies, there are three areas within the lake where this occurs (as shown by the crosshatch areas on Plan B appended to Mr McLeish's evidence). As a result of introducing Standard 22.3.6.8, undertaking the sediment removal activity within two of the identified areas would require a resource consent to be sought.
69. Mr Davies proposes a 'Salt Works Lake Maintenance' overlay is created and the following addition to Standard 22.3.6.8 is made:

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

70. Mr Davies also seeks Standard 22.3.6.3 is amended to improve consistency with Standard 22.3.6.2. The following amendment is proposed:<sup>33</sup>

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

71. The report writer recommends the development of a 'Salt Works Lake Maintenance' overlay in accordance with Plan B of Mr McLeish's evidence and Standard 22.3.6.8 be amended as follows:<sup>34</sup>

---

<sup>33</sup> Section 42A Report, Reply to Evidence, page 17.

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

72. And that Standard 22.3.6.3 be amended as follows:

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

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

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

#### **Consideration**

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

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

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

- Provide an exception in the first new standard (that is, excavation must not occur in an Ecologically Sensitive Marine Site) to allow for ongoing maintenance of the lake bed.<sup>35</sup>
- Amend 22.3.6.2 so it does not constrain excavation of the lake.<sup>36</sup>
- Amend 22.3.6.3 so that the standard still applies to a lake (in contrast to the recommendation).<sup>37</sup>
- But provide an exception for wheeled or tracked machinery to operate in the Salt Works Lake Maintenance Overlay (that is, *lake except within the Salt Works Lake Maintenance Overlay*), or the ...

---

<sup>34</sup> Section 42A Report, Reply to Evidence, pages 16-17.

<sup>35</sup> Section 42A Report, paragraph 246.

<sup>36</sup> Section 42A Report,

<sup>37</sup> Dominion Salt Ltd, Quentin Davies Submissions at the hearing.

- Prepare a Salt Works Maintenance Overlay as set out in the Memorandum of Counsel for the salt works.<sup>38</sup>
77. Rule 22.4.2 should be amended so that the depth limitation applies only within 100m of the zone boundary<sup>39</sup> (including deletion of 22.4.2.2).
78. The creation of the Salt Works Lake Maintenance Area, as outlined above, combined with a decision on another DSL submission point in the Topic 11: Coastal Environment decision, add additional overlays to the Plan. The effect of the overlays is to allow location specific rules apply to specific activities. The same also applies in the case of the existing Intake and Pipeline Extension Corridor.
79. Having made decisions on these submission points on their merits, but in isolation to each other, the Panel has reflected on the best structural option for giving effect to its decisions. As they stood, the decisions would introduce a level of complexity to the permitted activity rules in 22.1, and their accompanying standards in 22.2 The Panel considered that this complexity would create the potential for confusion in the implementation and administration of the rules.
80. In the process of considering a remedy to this matter, the Panel noted the content of Appendix 16 of Volume 3. As notified, Appendix 16 contains three scheduled sites<sup>40</sup> and it operates to allow a set of specific rules apply to each of the scheduled sites. This is exactly how the Salt Works Lake Maintenance Area and Salt Works Outlet Area (see Topic 11 decision) are designed to operate with respect to DSL's operations at discrete parts of Lake Grassmere.
81. The Panel has determined that Appendix 16 should therefore be utilised to provide for the rules that apply to each of the relevant spatial areas. To achieve this end, the relevant spatial areas have to be mapped as scheduled sites in the relevant zoning maps of Volume 4. This would have the effect of removing complexity from 22.1 and 22.2 of Volume 2. Those sections would simply contain the rules that apply to the Lake Grassmere Salt Works Zone in its entirety.
82. The Panel also noted that the Intake and Pipeline Extension Corridor operates in much the same way to the two new overlays: A discrete set of rules applies to specific activities in the

---

<sup>38</sup> Memorandum of Counsel for Dominion Salt Ltd, 19 July 2018.

<sup>39</sup> Dominion Salt Ltd (355.16)

<sup>40</sup> Decisions on Topic 21: Zoning add two additional scheduled sites.

Corridor. For consistency, the Panel is making a consequential change to also relocate the rules that apply to the Corridor to Appendix 16.<sup>41</sup>

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

**Decision**

84. Rule 22.3.6 is amended as follows:

*22.3.6 Excavation*

...

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

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

...

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

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

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

85. Amend 22.4.2 as follows:

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

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

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

---

<sup>41</sup> The Panel has also decided to delete Appendix 21 as a result of accurately mapping the Intake and Pipeline Extension Corridor on the relevant zoning maps.

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

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

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

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

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

---

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

[D]

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

[D]

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

[C]

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

[C,D]

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

[R, D]

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

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

---

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

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

### **7B.1 Permitted Activities**

---

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

[C]

**7B.1.1** Take and use of coastal water.

[C]

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

[C]

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

[C]

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

[C]

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

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

---

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

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

### **7C.1 Permitted Activities**

---

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

[R, D]

**7C.1.1** Excavation



88. The introductory wording to 22.1 is amended to read “Unless expressly permitted by rules in Schedule 7 of Appendix 16 or expressly limited elsewhere by a rule in the Marlborough Environment Plan...”

#### **Method 15.M.45**

##### **Monitoring**

89. This method requires a continued regional monitoring programme to gather information on soil quality variables across representative soil types in Marlborough. This will include the nature and intensity of the predominant land uses and specific land disturbance activities. Monitoring the effects of forest activities in the coastal environment of the Marlborough Sounds is a priority.<sup>42</sup>

##### **Slope and volume limits**

90. A number of permitted activity standards in the PMEP set limits for the maximum volumes of earth and slope gradients that can be excavated or where filling can occur. Several submitters oppose the standards and seek amendments to increase the minimum allowable volumes and gradient slope.
91. Numerous other submitters provided a raft of requests through submissions opposing inter alia excavation methods, overly prescriptive standards ensuring investigating earthworks are undertaken without resource consents, limitations<sup>43</sup> around the construction of farm tracks.<sup>43</sup>

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

92. The report writer did not support the relief sought by all those submitters, and provided reasons which the Panel agreed with.

##### **Consideration**

93. MEC is one of the group of submitters who oppose the excavation standards in the Coastal Environment Zone (Standard 4.3.13) and Rural Environment Zone (Standard 3.3.14).<sup>44</sup> The submitter has suggested an upper limit of permitted excavation of 20,000 m<sup>3</sup> to prevent any large scale changes in landscape.
94. The report writer identifies that Objective 15.4, and Policies 15.4.2 and 15.4.3 seek to ensure soil quality is maintained and enhanced, and land disturbance activities are controlled for the purpose of minimising the loss of eroded sediment to surface water. Specific standards limit

---

<sup>42</sup> PMEP, Volume 1, page 15-42.

<sup>43</sup> MFIA (962.106), Nelson Forests (990.249), Rainbow Sports Club (228.9), Federated Farmers (425.612, .656, .694, .728, .729, .730), J Rudd (251.1), I Bond (469.14, .15), G Cooper (743.4), PF Olsen (149.54), G Mehlhopt (456.60) J Hickman (455.60), BMCRRRA (1190.26, .24), Pinder Family Trust (578.48), MEC (1193.37), SSNZ (1146.26, .48) among others.

<sup>44</sup> MEC (1193.37).

excavation and filling volumes in some Outstanding Natural Features and Landscapes to manage landscape effects.<sup>45</sup>

95. In the Reply to Evidence identifying emerging soil quality issues, the initial submission of MEC seeking a 20,000 m<sup>3</sup> limit was revised following discussion with Matt Oliver, the soil scientist from MDC, to a limit of 10,000 m<sup>3</sup> as a more practical solution if the adverse effects on the environment are mitigated effectively and if the activity is within a Soil Sensitive Area identified as loess soils.<sup>46</sup>
96. Policy 15.4.1 seeks improvement in Council's understanding of the effects of land use on soil quality. The explanation to the policy states that ongoing monitoring may be applied to determine whether existing or emerging land management practices should be continued or altered to minimise the impact on the quality of Marlborough's soil resource.
97. Method 15.M.44 requires the Council to undertake a regional monitoring programme to gather information on soil variables.
98. In the report writer's conclusion she considers the information is still emerging on soil disturbance issues and further information gathering to determine what effects may arise as a result of recontouring over time. Additionally, any recontouring will still need to comply with other permitted activity standards relating to Soil Sensitive Areas, surface water quality standards and separation distances. The report writer on this basis does not recommend any of the relief sought.<sup>47</sup>
99. MEC is concerned at large scale excavation on slopes less than 20 degrees that may be involved within the recontouring of land for viticultural development.
100. Bearing the report writer's conclusion in mind that information is still emerging on soil disturbance issues, the Panel considers a second method should be added under 15.M.45 as follows:

*A further priority is monitoring the effects of recontouring of land in Marlborough, particularly on loess soils.*

---

<sup>45</sup> Section 42A Report, paragraph 191.

<sup>46</sup> Section 42A Report, Reply to Evidence, pages 18-19.

<sup>47</sup> Section 42A Report, Reply to Evidence, page 19.

**Decision**

101. Method 15.M.45 is amended as follows:

***Method 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.*

*A further priority is monitoring the effects of recontouring of land in South Marlborough, particularly on loess soils.*

**Setbacks: Cleanfill**

102. Several submitters seek that standards limiting the deposition of cleanfill in the Rural and Coastal Environment Zones are amended to require a setback of 100 metres from the coastal marine area.<sup>48</sup>
103. Ms Wardle for MEC seeks the filling of land with cleanfill to be setback because of the potential adverse effects on landscape and amenity, and the potential for cleanfill to be contaminated with other materials.<sup>49</sup>

**Section 42A Report**

104. The report writer considers there is no reason for a 100 metre setback, aside from 'cleanfill operations not being desirable any closer'. The current standards in the WARMP require filling to be set back at least 8 metres from surface waterbodies, and this provision has been included in the PMEP.
105. If the filling of land with cleanfill was to occur within the 8 metre setback the need for a resource consent would be triggered where a case by case assessment of the operation can be undertaken via the resource consent process.<sup>50</sup>

---

<sup>48</sup> Pinder Family Trust (578.45, .46), GOTS (752.45, .46), SSNZ (1140.58, .59) and MEC (1193.34, .35).

<sup>49</sup> Section 42A Report, Reply to Evidence, page 19.

106. In the report writer's opinion, a 100 metre setback in the coastal marine area is an inefficient and overly onerous way to achieve the relevant PMEP objective and policies. The submissions and setbacks sought are not recommended to change.<sup>51</sup>

#### **Consideration**

107. The Panel, however, concluded that land filling with cleanfill should be set back 20 metres from the coastal marine area in the Coastal Environment, Coastal Living and Rural zones. The Coastal Environment and Coastal Living zones in the Sounds will still have land that is not fronted by a reserve, but in most cases there is an effective built in barrier in the form of a Sounds Foreshore Reserve. The Panel decided upon 20 metres to reflect that barrier distance provided by Sounds Foreshore Reserve to ensure a measure of consistency. In the Rural zone in southern Marlborough while it is common for there to be reserve or road reserve land adjacent to the sea, which again provides an effective barrier, that is not always the case.
108. If the filling of land with cleanfill was to occur within this 20 metres then the need for a resource consent would be triggered.
109. The issue of setback for excavation was not raised in the submission and the Panel did not have scope to address it.

#### **Decision**

110. Amend standards 3.3.16.8 and 4.3.15.9 as follows:

*Filling must not be in, or within:*

*(a) 8m of a river (except an ephemeral river when not flowing); or lake ~~or the coastal marine area~~;*

*(b) 8m of, a Significant Wetland;*

*(c) 8m of the landward toe of a stopbank;*

*(d) 20 metres of the coastal marine area.*

111. For consistency, amendments are made to the Coastal Living Zone as follows:

*7.3.9.7. Excavation and filling must not occur in, or within 8m of, a river, Significant Wetland, drainage channel or Drainage Channel Network and filling must not occur within 20 metres of the coastal marine area.*

---

<sup>50</sup> Ibid, page 20.

<sup>51</sup> Section 42A Report, paragraph 216.