

Proposed Marlborough Environment Plan

Topic 21: Zoning and Definitions

Hearing dates: 6 – 7 November 2018

S42A Report Writer: Paul Whyte, Andrew Henderson, Liz Gavin and Matt Oliver

Conflicts of Interest: Commissioners Hook, Crosby, Oddie, Arbuckle

Interim decision: No

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

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List of Abbreviations

GMSF	Growing Marlborough – A Strategy for the Future
PMEP	Proposed Marlborough Environment Plan
MDC	Marlborough District Council
NES	National Environmental Standard
RMA	Resource Management Act 1991

Submitter abbreviations

Chorus	Chorus New Zealand Limited
Colonial	Colonial Vineyards Ltd
Levide	Levide Capital Limited
NZTA	New Zealand Transport Agency
Spark	Spark New Zealand Limited
Talleys	Talleys Group Limited Land (Operations)

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 Panel¹.
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

¹ (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.

Volume 4 Zone Maps

8. The following provisions are amended for the reasons set out in the report writers' Reply to Evidence or where no commentary is provided there, then as stated in the Section 42A Report:

Map 8 – Lot 1 DP 8533

Map 19 – 38 and 40 New Renwick Road

Map 21 – 100 and 102 Alabama Road

Map 34 – 5-9 Kent Street

Map 55 – 15 and 19 Hardings Road

Map 57 – 80 Main Road

Map 60/61 – Wairau Valley Tavern

Map 140 – Lot 1 DP 467695

Zoning Maps 12, 13, 18, 19 (Battys Road)

Burleigh Estate Ltd and Donna Marris

9. Several submitters gave evidence in support of the Marris Family Trust and Burleigh Estate rezoning 31.56 ha of Rural Environment land to Urban Residential 2, to the west of Battys Road and to the north of New Renwick Road.² The submitters own all of the relevant land on the Computer Freehold Register 721727 Burleigh Estate Limited, and Computer Freehold Register 160333 and 160334 Marris.³ Figure 7 in the Zoning Section 42A Report illustrates this as Area 8 which was identified in the Growth Strategy as an area suitable for urban residential land.
10. Against the background of the Southern Marlborough Urban Growth and Development – A Strategy for the Future 2013 (the Growth Strategy), which predicted an increase in the population levels from the 2006 levels, indicating an increase for Blenheim of 2770 by 2031, the submitters seek to change the land use of the site in order to provide land for a range of sustainable developments in an expanding area of Blenheim. Recent plan changes have provided only 66% of what was originally proposed in the Growth Strategy, significantly short of what is needed out to 2031.
11. The area of Burleigh/Marris land is seen to be well placed to help provide urban capacity for Blenheim in the short to medium term.

² Donna Marris (200.1-200.4) and Burleigh Estate Ltd (98.1).

³ Burleigh Estate Limited and Marris Family Trust, Gavin Cooper, Evidence, paragraphs 14-15, Ayson Surveys and Report *Battys Road West – Rezoning Proposal* at Attachments 1 and 2 refer.

12. The submitters were supported by witnesses from surveying, civil engineering, traffic impact assessment, geotechnical investigations and planning professions.
13. Ms Skilton, traffic engineer for the submitters, confirmed at the hearing that the results of the projections for a roundabout at the Battys Road/New Renwick Road intersection might require land acquisition from other owners (who had not been consulted).
14. In her analysis, Ms Skilton assumed a single lane roundabout with a 15 metre diameter. She changed the default roundabout environment factor from 1.0 to 1.1 to be conservative as 'Sidra' (the analysis tool) sometimes under-estimates delays at a roundabout.⁴ The layout used in the analysis is shown in Figure 22 of her evidence. It was recommended that the roundabout be constructed prior to the completion of all developments proposed in the submissions.⁵
15. The conclusion reached by Ms Skilton is that with the development, the level of service on the southern approach (Richardson Avenue) reduces to D. The right turn from Battys Road also has level of services D with an average delay for this movement of 27.7 seconds per vehicle.
16. 'With all the other developments the level of service reduces to F for both the southern and northern approaches. This level of delay is not acceptable and mitigation would be required'.⁶
17. As part of mitigation, however, Ms Skilton acknowledged there were 'space constraints due to local land use boundaries' in order to get enough capacity for the eastern approach ('two approach lanes are required here'), leaving 'final decisions at the detailed design stage'⁷ which would involve liaising with Marlborough Lines.

Section 42A Report

18. The report writer identifies the positive aspects of the proposal from the evidence of Donna Marris in terms of the site's geotechnical investigative ground conditions, its connectivity to both New Renwick and Battys Roads, and access to the road network. New Renwick Road is currently beginning to have high delays, particularly at the intersection of Battys Road. It is this intersection that is the Panel's main focus in this decision in zoning terms.
19. As to the mitigation evidence, the report writer considered that accommodating a roundabout on New Renwick/Battys Road did not appear to be conclusive in its preliminary design. The traffic effects at the Battys Road/New Renwick Road intersection were analysed by making

⁴ Burleigh Estate and Marris Family Trust, Laura Skilton, Traffic Figures Evidence, paragraphs 114-117.

⁵ In Figure 24 similar conclusions were reached in respect of the analysis of effects at the Aerodrome Road/New Renwick Road intersection (Laura Skilton, paragraphs 118-132).

⁶ Hearing Panel Minute 46, paragraph 3.

⁷ Burleigh Estate and Marris Family Trust, Laura Skilton, Traffic Figures Evidence, paragraphs 142-145.

projections as to those cumulative effects only when added to traffic effects of already consented or permitted activities.⁸

20. The Panel sought further information on the traffic effects at the Battys Road/New Renwick Road intersection, and similarly also an analysis of the effects at the Aerodrome Road/New Renwick Road intersection for which approval would also need to be sought, also identified in the evidence of Ms Skilton.⁹

Consideration

21. In its Minute 46, the Panel requested that Figure 22 (and Figure 24) provided in Ms Skilton's evidence be redrawn to include:
- present property boundaries and information on the ownership of the underlying land;
 - the steps undertaken to acquire the land necessary to be able to construct the roundabouts as identified in Figures 22 (and 24).
22. The Panel undertook several visits to the site including when the response to Minute 46 introduced a new Figure 1, a schematic design of the Battys/New Renwick Road roundabout. Figure 1 provided the property details adjacent to the proposed intersection, advising that the only property owner consulted was the shop owner at the 72 New Renwick Road intersection.
23. Of particular interest to the Panel in the diagram, however, was the central roundabout in Figure 22 described as '14 metres [which] will allow for a 1.5 metre wide footpath around all four corners of the roundabout without any property acquisition'.
24. The focus of the Panel's particular concern related to:
- (i) traffic movements along New Renwick Road in both directions; and
 - (ii) traffic movements into and out of Battys Road onto New Renwick Road in both directions; and
 - (iii) the impacts of the proposed design on current traffic flows on both Battys Road and New Renwick Road in a comparative sense with current road layout patterns.
25. The 1.5 metre wide footpath tapers out not far from the corner in Richardson Avenue which indicates pedestrians would not be safe.

⁸ Section 42A Report, Reply to Evidence, page 1.

⁹ Hearing Panel Minute 46, paragraphs 3, 5-10.

26. A further request of Marlborough Roads¹⁰ sought confirmation from Marlborough's roading authority (Mr Steve Murrin) as to whether a safe and efficient roundabout could be constructed within the confines of New Renwick and Battys Roads and Richardson Avenue intersection without acquiring additional land. Mr Murrin's conclusion is that a safe and efficient roundabout can be constructed within the confines of those Battys and New Renwick Roads and the Richardson Avenue intersection with the caveats being:
- consideration be given to acquiring a 2.5 metre strip along the Battys Road frontage;
 - the proposal will have a significant impact on the available space in front of the shop on the corner of Richardson Avenue;
 - there will be slight delays for traffic going straight through on New Renwick Road as they would need to give way at the roundabout;
 - there may be a 'rat run' if traffic builds up on New Renwick Road heading east and the locals may 'rat run' run along Lancaster Avenue, Spitfire Drive and Richardson Avenue to avoid the traffic.
27. In Minute 50, however, the Panel had sought specific consideration from Marlborough Roads' response of footpath layouts and/or bicycle lanes if they were likely to be contemplated. Mr Murrin replied that the design can safely cater for cycle traffic or for pedestrian crossing roads within the intersection.¹¹

Decision

28. The land subject to the submissions is rezoned Urban Residential 2.
29. Insert a new policy after Policy 12.9.6 as follows:

Policy 12.9.x – Before residential subdivision and development of land in Schedule 2, Appendix 23 proceeds, roundabouts at the intersections at Battys Road and New Renwick Road and New Renwick Road and Aerodrome Road must be considered as part of the subdivision consent process with the following outcomes to be achieved:

- (a) In respect of Battys Road and New Renwick Road intersection a roundabout must be constructed prior to any subdivision and development;
- (b) In respect of the Aerodrome Road and New Renwick Road intersection modelling of traffic volumes/flows must be considered in determining whether a roundabout is required at that intersection before any subdivision consent is granted; and

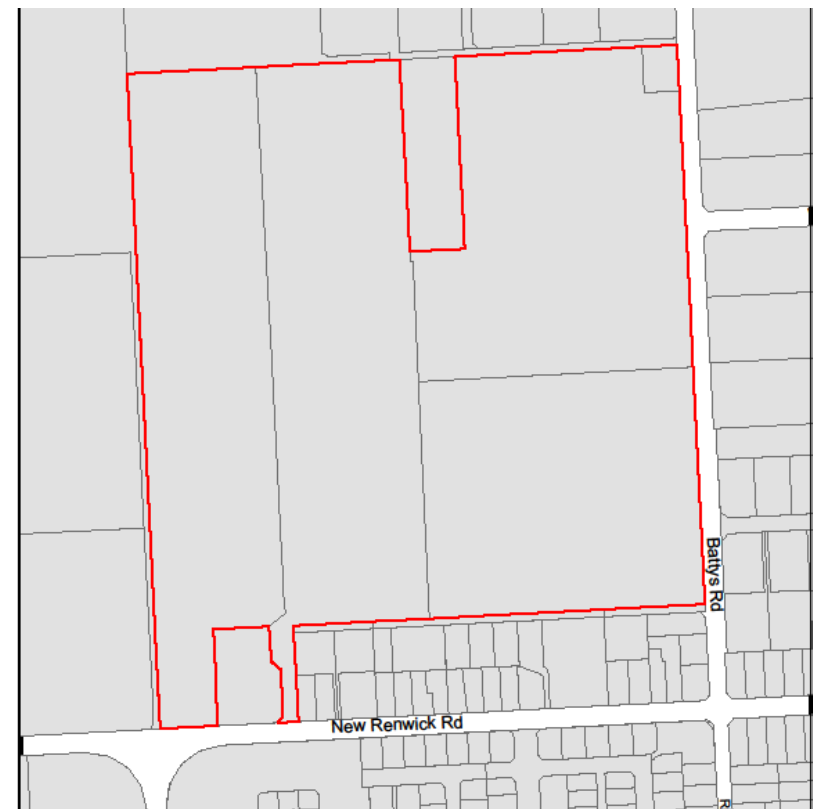
¹⁰ Hearing Panel Minute 50.

¹¹ Marlborough Roads, Steve Murrin, Response to Minute 50, paragraph 3(i)-(iii).

- (c) Any roundabout makes sufficient and appropriate provision for likely traffic volumes, cyclists and pedestrians.

The land in Schedule 2, Appendix 23 was rezoned Urban Residential 2 as a result of submissions made to the notified Plan. Integrating future residential development on this land with the existing road network is of critical importance as the adjacent Battys Road and New Renwick Road are both secondary arterial roads under the roading hierarchy. To cater for the increased traffic volumes on these roads created by residential use of the scheduled land and to ensure that this traffic integrates with existing and future traffic flows, a roundabout is required at the Battys Road and New Renwick Road intersection. The policy directs that this roundabout is constructed prior to any subdivision and development of the land. An intersection may also be required at the Aerodrome Road and New Renwick Road intersection, to which it is intended to provide a roading connection for the residential development. The policy directs that modelling should be used to determine whether a roundabout is also required at this intersection. The modelling will allow for increased traffic flows generated by other development in the vicinity to be factored into the assessment. The design of the roundabouts should make provision for all forms of transportation.

30. Insert a new a Schedule in to Appendix 23 as follows:



D’Urville offshore islands

Poneke Rene

31. Mr Rene seeks to rezone a number of small offshore islands from Open Space 3 to Coastal Environment.¹² As listed in the report writer’s Summary of Evidence,¹³ Mr Rene’s points of interest identified:

- The islands are in private Māori ownership and are ancestral land of cultural significance.
- Open Space 3 zoning would not enable the Māori landowners to provide for their social or cultural wellbeing.
- The key issue is that Open Space 3 enables conservation management over cultural space.
- Reference is made to the matters of national significance as specified in RMA s 6(e) – the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga.
- Open Space 3 zoning would take Māori out of the RMA and into the Conservation Act s 4 provisions which seek to give effect to the principles of the Treaty.
- Reference is made to recommendations on appropriate spatial layers under s 6(e).
- Open Space 3 zoning would not allow the full effect of s 6(e): promoting public access, promoting conservation management and possible co-management when this is not wanted.
- Concern with property and riparian rights.¹⁴

Section 42A Report

32. The report writer points out that riparian rights are not affected by a change in zoning. Section 6 RMA will apply regardless, while Open Space zoning is not as permissive as that of the Coastal Environment Zone. Open Space may be preserved to encourage public access but appears to be in his opinion the most suitable classification.

33. The suggestion the report writer makes is that customary rights be added to permitted activities; there is a potential scope issue in defining the exercise of these activities – as an

¹² P Rene (1023.6) Submission, paragraphs 114-119.

¹³ Section 42A Report, Reply to Evidence, page Page 5 and 6

¹⁴ Section 42A Report, Reply to Evidence, Topic 21 Zoning.

example, the term 'māhinga kai' would not appear to be excluded from the zone, that is, 'māhinga kai gathering'.

Consideration

34. The Panel understood Mr Rene was concerned that in some way the limited permitted activities in the Open Space 3 zone would inhibit or restrict the ability of the Māori owners to be able to use these islands for their own customary practices.
35. The Panel sought clarification from Mr Rene as to what remedies would more specifically meet his concerns.¹⁵ In terms of access to the islands, Mr Rene's attention was drawn to Policy 9.1.4 PMEPP which states:

Policy 9.1.4 – Acknowledge that public access to land held in private ownership can only be granted by the landowner.

Access to beaches, rivers and the high country frequently relies on landowner goodwill in allowing people to cross private land. This policy acknowledges that the Council respects the private property rights of the landowner and understands it is their prerogative to grant or refuse permission for people to cross their land.

36. The Panel considers that method 9.M.1 may not be consistent with this policy in the context of private land. This can be remedied by a slight amendment to 9.M.1 excluding public access to the subject lands.
37. The Panel also echoed the report writer's conclusion that the Open Space 3 Zone very limited permitted activities were more protective of the islands' environment than was the wide range of Coastal Environment Zone permitted activities.
38. In response to Mr Rene's concerns that there was no specific provision for the customary gathering of māhinga kai by the Māori owners, the Panel identified there is a possibility that the words 'Passive recreation' in the wording of the first of the permitted activities in the Open Space Zone could be amended to read:

Passive or informal recreation means the voluntary and unstructured use of a range of recreational activities including the customary gathering of māhinga kai.

39. Mr Rene did not accept that suggestion.

¹⁵ Hearing Panel Minute 42.

40. In his response to the minute, Mr Rene reiterated some of his concerns that a zoning dilemma still exists for Māori and should be noted for future Māori/Crown relationships not yet having a 'home' in any areas of Marlborough.
41. As a way forward, the only tenable option is his response to 'leave unchanged' the Open Space 3 Zone as the islands are currently zoned.¹⁶

Decision

42. As alternative relief, amend 9.M.1 by adding to the third sentence of the explanation for the Open Space 3 Zone:

... The zone for conservation purposes (Open Space 3 Zone) applies to open space intended to be retained largely in its natural state. Included in this zone are areas of native vegetation, natural ecosystems and important habitats, riparian margins and areas of outstanding landscape value that are in public ownership. An important aim for this zone is also the promotion of public access to and along the coast, lakes and rivers with the exception of the privately owned islands off Rangitoto/D'Urville Island. The Zone will therefore be applied to areas identified as Sounds Foreshore Reserve, esplanade reserve or unformed road reserve that abuts the coastline.

Zoning Map 85 – Talleys Site, Old Renwick Road

43. Talleys Group Limited Land (Operations)¹⁷ seek to rezone 747 Old Renwick Road, Rapaura (19.51 ha) shown on Figures 31 and 32 in its submission as Industrial (the type of industrial zoning and its extent is not identified). Part of the site is in the Floodway Zone.
44. Currently 747 Old Renwick Road is used for mussel shell and vegetable processing. This operation dates back to 1976 when an application was made in respect of a canning factory and since this time a number of resource consents relating to new buildings, operations, discharge of processing waters to land, and discharge to air from coal boilers and water take have been granted.

Section 42A Report

45. The report writer identifies a rural industry in a Rural Zone as a discretionary activity so any further activities on the site will require resource consent if further developments are outside the terms of existing consents. Rezoning to Industrial would enable light and heavy industrial

¹⁶ P Rene, Response to Minute 42 of the Hearing Panel, 30 November 2018, page 2.

¹⁷ Talleys Group Limited (374.1).

activity, service industry, warehousing and permitted activities subject to standards which are more permissive in terms of bulk and location and noise than Rural zoning.¹⁸

46. The report writer called in aid Policies 12.5.6 and 14.1.3 and Objectives 4.1 and 4.4 as indications that the proposed industrial zoning might not be advantageous to the submitter. He concludes that the submitter is essentially requesting a 'spot zone' given the predominance of the surrounding rural zoned land. Zoning at such a micro level may not be encouraged - in the context of sustainable management under the RMA as well as producing the complexities of a multiplicity of interacting effects if Industrial zoning is recommended. In a case before the Environment Court, the Court had declined this spot type of zone because of the potential for reverse sensitivity adverse effects from future possible activities in a Business Zone.¹⁹
47. The report writer recommended rejecting the submission on grounds of:
- the site's relative isolation in a rural area;
 - the lack of strategic support for such zoning in the PMEP and the Growing Marlborough – A Strategy for the Future (GMSF);
 - the number and nature of potential adverse effects that could be generated on the site;
 - the impact on the amenity of the surrounding rural areas.
48. The report writer concluded that the activity should remain under the control of the resource consent process rather than allow a wider range of activities potentially available if the site is zoned Industrial.

Consideration

49. The legal submissions of counsel and the evidence of Mr Ron Sutherland disagreed with the Section 42A Report's recommendation not to rezone the Talleys Group site. Both were persuasive that there is an alternative to rezoning – scheduling the site, described in relation to Appendix 16 as a suitable 'handbrake' on future activities. Significantly, the submitter suggested limiting activities to food processing (excluding meat which would have signified freezing works-type activities).
50. In his Summary of Evidence in Reply to the suggested restriction of the proposal to food processing only, the report writer identified he was comfortable with that approach as the suggested restriction addresses concerns about other activities on such a large site. It was

¹⁸ Section 42A Report, paragraph 197.

¹⁹ Section 42A Report, paragraph 200. *Kamo Veterinary Holdings Ltd v Whangarei DC A/161/03*).

identified that Talleys' processing lines currently produce 5000 tonnes of product a day, but will be expanded to 8000 tonnes in 3-4 years. He noted the site is one of a few left of its kind for processing plants as well as the ability to sustain waste water disposal on site because of the size of its land holdings.

51. The Panel in its consideration of the proposal concluded that the project is an uncomfortable zoning 'fit', being classed as a rural activity; equally it does not fit with heavy industrial also. The Panel is particularly concerned that the infrastructure services for industrial zoning such as industrial waste collection and treatment are not available at this location.
52. We concluded scheduling the activity in Appendix 16 with Industrial 2 standards to apply was the most appropriate solution as it recognises an existing use. Consent will still be required for waste disposal which requires significant areas of land. For this reason it is not appropriate to schedule all of the submitters land. Nor is it appropriate to be rezoned Industrial 1.

Decision

53. Insert in Appendix 16 the following:
 - Schedule 6 – Talleys Group Ltd Site on land described as Lot 1 DP 4415
 - Insert site on Planning Map 85 Scheduled Activity relating to Lot 1 DP 4415.
 - The permitted activity rules and standards set out below
 - Where not otherwise provided for by, or limited by, the rules in Schedule 6 of Appendix 16, the rules of the Rural Environment Zone apply to all activities on the Talleys scheduled site.

6.1 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 where they comply with the applicable standards in 6.2 below and 3.2 and 3.3 of the Rural Environment Zone.

[D]

6.1.1 Food production or processing (excluding red meat, deer, pig or poultry based food production or processing);

[D]

6.1.2 Activities ancillary to food production and processing (excluding red meat, deer, pig or poultry based food production or processing); including warehousing and the fabrication and maintenance of plant and machinery.

[R]

6.1.3 Permitted Activities 12.1.11, 12.1.12, 12.1.19, 12.1.20 and 12.1.28 of Chapter 12

6.2 Standards that apply to all permitted activities

6.2.1 Standards 12.3.2, 12.3.9, 12.3.10 and 12.3.17 of Chapter 12

6.3 Discretionary Activities

Application must be made for a Discretionary Activity for the following:

[R]

6.3.1 Any activity provided for as a Permitted Activity that does not meet the applicable standards.

54. Insert a new Permitted Activity rule in the Rural Environment Zone as follows:

Xxx Specifically identified activities listed as permitted on sites scheduled in Schedule 6 Appendix 16.

Zoning Map 126 – Queen Charlotte Drive, Grove Arm

55. Beaver Ltd and Clouston Sounds Trust, and RJA Black, JE Black and JV Dallison oppose the zoning of Lot 1 DP 10803 (2900 m²) and Lot 2 DP 10803 (6600 m²) respectively in terms of their dual Coastal Living Zone and Coastal Environment Zone mapping (Figures 35 and 36). The submitters state that the current 'zone boundary is based on a historical error' and seek that the Coastal Living Zone should be extended over the whole of the two sites. At present the Coastal Living Zone appears to apply only to some of the existing dwellings and curtilages and the Coastal Environment Zone to the 'undeveloped' parts of the sites.²⁰
56. David Dew, on behalf of the submitters, reiterated their submission that zoning should at least reflect the development on the current sites (which does not occur at present). Further development is unlikely on both sites because of the steepness of the terrain.

Section 42A Report

57. The Section 42A report writer notes the adjoining sites and others in the vicinity are zoned in a similar 'split' way with the Coastal Living Zone applying to existing dwellings and curtilages and the Coastal Environment Zone to the undeveloped part of the sites. The zoning also reflects the situation in the MSRMP. The current situation is therefore not unusual, and the report

²⁰ Beaver Ltd and Clouston Sounds Trust (29.1) and RJA Black, JE Black and JV Dallison (28.1).

writer is unsure what the 'historical error' may be referred to in submissions.²¹ The sites could not be subdivided as a controlled activity because of their substandard area. The sites do not have reticulated sewerage.

58. The report writer also considers that any rezoning should have regard to the objectives and policies of the PMEP, particularly those relating to Coastal Living in terms of landscape, visual amenity, services and the stock existing already on the Coastal Living zoned land. His conclusion is not to recommend rezoning on the site.²²
59. The report writer concluded in his Summary of Evidence after hearing Mr Dew in evidence that it is appropriate to extend the zoning on Lot 1 DP 1083 as the existing dwelling on that site is not covered by zoning. For the rest, there appears to be a mixture of zoning applied to the coastal sites across the PMEP as a whole site/part of site. But the report writer retains his opinion that the whole site should not be rezoned because of the potential further subdivision, notwithstanding the difficulties of developing the physical environment. In that respect, Policy 13.5.3 as notified is particularly relevant.

Consideration

60. The Panel's assessment of these submissions is that the zoning issue should be tidied up. Lot 1 Coastal Living zoning does not currently cover one of the existing houses. We considered both sites should be rezoned, making the sites no longer split into two. We also concluded because of the steepness of the two sites, it is unlikely that they could be further subdivided and consequently developed. We concluded the rezoning does not provide any development advantage in terms of additional dwellings but aligns the zoning treatment of this property in a similar manner to properties adjacent.

Decision

61. Zoning Map 126: The Coastal Living Zone is extended over all of Lot 1 DP 10803 and Lot 2 DP 10803.

Zoning Map 159 – Corlett Block and Others

62. Colonial Vineyards Ltd (Colonial) oppose the proposed industrial zoning of the Corlett Block (Lot 2 DP 440534, property number 536136) to the south of the Colonial site. Instead Colonial seeks rural zoning for that land.
63. Colonial is the developer of the Omaka Landing subdivision located on New Renwick Road between Richardson Avenue and Aerodrome Road. Development is occurring in stages with

²¹ Section 42A Report, paragraph 215.

²² Section 42A Report, Summary of Evidence, page 1.

Stages 1-6 having been completed with 138 sections sold. The next stages total another 88 sections to be completed by the end of 2019.

64. The Corlett Block is a greenfield site for an industrial zone and as such Colonial considers Council should carefully consider the impact this new industrial zone will have for the existing residents of the area. A small textile mill, a trucking company, light manufacturing, servicing and repair could be established on the site. These references were among those mentioned by Mr Mark Davis, witness for Colonial.²³ Reference was also made to a building able to be established with a maximum height of 12 metres and a minimum 6 metre boundary setback on the border with a Residential Zone.
65. The submitter notes the following:
- Council's view of the demand for industrial zoning is unrealistic as accepted in a recent case in the Environment Court affecting Colonial's land²⁴.
 - Now that the Colonial site has been rezoned to Urban Residential, there is a clear need to reassess the Colonial /Corlett Block Rural Zone interface as adverse effects and conflicts will arise including noise and traffic.
 - A buffer zone needs to be put in place between any Industrial/[Omaka] Airport zones. The retention of the Corlett Block in the Rural Zone achieves this.²⁵
66. Colonial Vineyards opposes only the Industrial zoning over the Corlett Block and not the land between the Corlett Block and the Omaka aerodrome. It does not oppose the zoning of land south of Corlett Block for Industrial 1. The submitter also seeks a buffer between Omaka Landing and the proposed Industrial 1 zoning to the south, and 'is open to' this being Open Space 1 as opposed to retention of Rural zoning, which should be zoned 20 metres wide providing it also incorporates an earth bund.

Section 42A Report

67. The report writer identifies the PMEP has provisions recognising the interface between zones so that business and industrial activities are appropriately separated from the boundary of adjoining residential zones (Policy 12.7.1 and relevant rules – indicative sketches of such an arrangement provided by Colonial). He does not agree a buffer is necessarily desirable but, given the fact that an opportunity to provide an enhanced buffer was suggested and not opposed by the landowner, this approach is a possibility. The opportunity arises on the Corlett

²³ Colonial Vineyards Ltd, Mark Davis Evidence, paragraph 11.

²⁴ Colonial Vineyard Limited v Marlborough District Council [2014] NZEnvC 55

²⁵ Section 42A Report, paragraph 245.

Block, given its undeveloped nature at present. The report writer initially considered the Corlett Block should be retained as Industrial, but the Panel recommended consideration be given to a 20 metre wide buffer strip located on the Corlett Block and rezoned Open Space 1.²⁶

68. In his Summary of Evidence the report writer recommends that any bund would have to be incorporated as a rule in the Plan, for example, The Open Space 1 Zone located between Omaka landing and Corlett land shall contain a 3m high bund with a 1:3 slope. The buffer could potentially be extended in width. The alternative could be to insert a rule in the Industrial 1 zone on the Corlett land with a 'no build zone' of say 20-30m.²⁷
69. Mr Davis is supportive of the Section 42A report writer's proposition that there should be a zone between the (new) Light Industrial Zone and the Residential Zone being zoned Open Space 1. This arrangement would have the ability to create and protect amenity values.
70. If the zone is as narrow as 20 metres, Colonial would like to see this to incorporate an earth bund, approximately 3 metres high with a 1:3 slope. This would have very good acoustic deadening qualities, and when planted out would create a visual barrier for incompatible uses.
71. Counsel for Colonial considers the Council has altogether 'dropped the ball' because the PMEP provides no requirement for planting or earth bunds, or to address the visual effects of a potentially 12 metre high building on the boundary between the two sites.²⁸

Consideration

72. Colonial's original submission is that a buffer should be created by retaining the existing Rural Zone.
73. This and several other options were considered by the Panel in order to resolve Colonial's concerns and best provide for a Rural/Industrial development. The Panel undertook a site visit with the permission of the owner. The land in question is in close proximity to Omaka aerodrome and could potentially be used to accommodate its future expansion and related activities. The shortage of land for employment use on the periphery of Blenheim and the aerodrome (which provides opportunities and constraints, depending on the nature of the purposed land use) makes employment use in this area an efficient use of this land.
74. The Panel have come to the conclusion that the notified provisions of the plan do not adequately manage the potential adverse effects that could be generated by industrial activity

²⁶ Section 42A Report, paragraphs 248-253.

²⁷ Section 42A Report, Summary of Evidence.

²⁸ Colonial Vineyards Ltd, Counsel Submissions, paragraph 14.

on adjoining residential land. We note that unlike other industrial/residential interfaces in Blenheim this is a greenfields development.

75. The Panel queried how best to provide for an industrial/rural interface. That included;
- an earth bund running along the boundary of the property with the land developed by Colonial Vineyard Limited;
 - setbacks for industrial activity greater than those already provided for in the notified plan;
 - the use of an alternative zoning such as Open Space 1 which cannot be used or driven on along the boundary of the property with the land developed by Colonial Vineyard Limited;
 - more constraining noise standards than those already provided for in the notified plan.
76. In reaching this conclusion, the Panel also considered the option of increasing the setbacks for buildings associated with industrial activity at the interface with residential zones. However, there was no submission that provided the Panel with scope to implement this response. The only option available to the Panel in these circumstances was site specific.
77. A precedent has previously been set for an increase in the buffer zone between residential and industrial areas at the Tremorne Ave locale. In that instance, a 12 metre buffer excluding habitable buildings has been scheduled in Appendix 19 and associated rule provided at 5.2.1.13. In that locality, the residential activity was proposed next to the existing industrial activity.
78. A similar approach in reverse, where industrial activity is proposed next to existing residential activity, would be effective on the Corlett block as no industrial development has occurred on this site to date. Any industrial development on this site in the future will be able to plan for compliance with any increase setback. At the same time, given the scale of the Corlett block (10.334 ha) the increase in buffer from 6 metres to the 12 metres is not considered to have a significant effect on the ability to develop and use the block for zoned purposes.
79. In addition to an increase setback for buildings, the Panel also had a residual concern about the ability to undertake industrial activity not contained in buildings in close proximity to the adjoining residential land. In order to effectively manage the potential for cross boundary effects the Panel also decided that a setback from the northern boundary of the Corlett block for industrial activity is warranted.

80. It is noted that the Corlett block is proposed to be zoned Industrial 1. That means that heavy industrial activity cannot occur on the land as a permitted activity. The setback set out above only therefore needs to apply to light industrial activity.

81. The PMEP has the specific policy that addresses the industrial/residential interface as follows:

Policy 12.7.1 – Business and industrial activities are appropriately separated from the boundary of adjoining residential zones so that any adverse effects on residential activities are avoided, remedied or mitigated through:

- (a) establishing setbacks for industrial activities from a residential boundary;*
- (b) screening of business or industrial outdoor storage areas from a residential boundary;*
- (c) restrictions on light spill;*
- (d) setting more sensitive noise limits at the boundaries between the Industrial 1 Zone and the Urban Residential 1 Zone; and*
- (e) standards for dust and odour.*

Decision

82. The submission from Colonial Vineyard seeking rezoning from Industrial to Rural is rejected.

83. A new standard setting out the revised buffer requirement is inserted in 12.2.1. as follows:

12.2.1.X On Lot 2 DP 440534, or any record of title derived from that lot, a building must not be located within 12 metres of the property boundary as shown in Appendix 19.

84. A new standard setting out the revised buffer requirement is inserted in 12.3 as follows:

12.3.X Light industrial activity in the Industrial 1 Zone

12.3.X.1 Light industrial activity on Lot 2 DP 440534, or any record of title derived from that lot, must not be undertaken within 12 metres of the property boundary as shown in Appendix 19.

Zoning Map 172 – 16th Valley – Levide Capital Limited

85. Levide Capital Limited (Levide) seeks to rezone part of the submitter’s property from Rural Environment Zone to Rural Living, shown on Figure 47 of the Section 42A Report as ‘Proposed Rural Living Zone’. It is over approximately 31 ha consisting of 27 residential sites. The site is located on the 16th Valley Wither Hills and is asserted suitable for its use because it will have limited visual impact and is seen as complementary to the existing rural production values on the land.

86. The location is essentially self-contained with access on to the site from a farm track across railway tracks from Cloudy Bay Drive and State Highway 1. An Indicative Rural Living Subdivision – Detail Plan²⁹ put in evidence indicates a proposed half circle layout of an asymmetrical settlement on the lower slopes and valley floor at the 16th Valley, flanked by subparallel, northeast to southeast ridges. The southern valley flanks slope at between 15° and 25°, whilst the northern valley flanks slope at around 25° to 30°.
87. A permanent water course/stream runs along the valley floor.³⁰ Adjacent to the northern aspect of the stream, a heavily wooded forest dominates the landscape rising sharply to the ridge line and down to the banks of the stream.
88. The minimum subdivision area for the Rural Living Zone is 7500 m².³¹ While a geotechnical report for the site was included with the submission, the submission lacked an analysis of potential effects, difficulties with servicing, and the potential conflict with the provisions of the PMEP as notified.
89. The Section 42A report writer was consequently unable to recommend that rezoning proceed at the submission stage of proceedings.

The Levide case

90. At the hearing, Levide provided a number of witnesses – engineering, landscape, soil science, geology, planning – all of whom better informed the hearing of what Levide proposes. We note there are also the Afforestation Flow Sensitive Overlay, the Wairau Dry Hills Landscape Overlay, and the Soil Sensitive Areas Overlay. Threatened Environments and Water Use Unit Overlays apply to all or part of the land in question.³²
91. The submitters' evidence responded to a number of matters initially raised in the Section 42A Report:³³
 - Wastewater is proposed to be disposed of on each site and water supply by roof collection. Provision of services required in terms of Rule 24.1.2 and .3.
 - In terms of the Wairau Dry Hills Landscape Overlay there is only one small area located and it is adjacent to the area in question. Buffer and Conservation planting are proposed as part of the development.

²⁹ Levide, Liz Gavin, Evidence, Appendix C Indicative Plan.

³⁰ Levide, Richard Justice, Evidence, paragraphs 12, 13.

³¹ Section 42A Report, paragraphs 270, 275.

³² Levide, Shane Hartley Evidence, paragraph 4, Attachment C.

³³ Section 42A Report, Summary of Evidence, Zoning Topic 21, page 5.

- Concerns about sporadic development and transition from urban to rural development in the Rural Living Zone 14.5.2(c), (i) and adverse effects on water and soil quality (e) remain. The report writer acknowledges not all Rural Living Zones are transitional and are often isolated.
 - Concerns about soils on the site – it is partly located in Soil Sensitive Overlay loess soil. Policies 11.1.19 and 11.1.21 refer to controlling and avoiding structures on unstable land ‘including by means of zoning’.
92. Mr Justice of ENGEO, an experienced engineering geologist, gave a brief outline of the predominant geological hazards that could affect the 16th Valley in the location of the site. Potential liquefaction is considered to be low because of its underlying geology. Historic evidence of shallow landsliding and debris flow is indicated on the flanks of the ridge lines of the adjacent 15th and 16th Valleys, but direct risk from this style of failure Mr Justice considers low in the area of the proposed plan change.
93. In relation to soil erosion, this area of the 16th Valley is identified as two types: rilling; where overland flow scours and cut rills that further concentrate runoff, and can then deepen with collapse of the sides of the rill; and tunnel gully erosion, where cracks in the surface of the soil allow water to penetrate into the subsoil resulting in the enlargement and interconnection of subsoil voids. Over time, interconnection and physical enlargement of the voids can occur, leading to tunnel development. Ongoing enlargement can lead ultimately to collapse and formation of a tunnel gully.
94. There is widespread evidence of loess erosion within the 15th and 16th Valleys of the Wither Hills.³⁴
95. Reports on the valley soils in the 16th Valley were provided by Dr Iain Campbell who indicated that the soils are formed on landscapes that are different from most of the Wither Hills or terrace lands. He investigated how the Levide-proposed sites have properties that differ from those that are nearby formed from loess. He is of the opinion the valley floor soils on which the development is to be situated have a limited or negligible potential for tunnel gully erosion. Specifically, Dr Campbell’s research indicated there was no tunnel risk on the areas to be rezoned below 100° slope and limited minimum risk between 10°-15° slope.
96. The soils at the site are a ‘recent soil formed from multiple layers of stream deposits’. Bore hole (pit) testing carried out by ENGEO indicates that foot-slope deposits on lower valley side

³⁴ Levide, Richard Justice, Evidence, paragraphs 15-20.

surfaces are inherently variable, have intermittent layers of coarse or fine sediment and are younger than the soils on the slopes above since they are subject to periodic accumulation. This is illustrated here by the absence of a compact fragic horizon and the presence of more recently deposited surface materials. Earlier soil surveys have not been of a scale that would have allowed these foot-slope soils to be recognised as a separate entity.³⁵ The site is thus considered suitable for development.

Marlborough District Council’s Evidence

97. Mr Matthew Oliver, an environmental scientist with MDC, provided evidence which was precautionary in its implications, while recognising the significance of Dr Campbell’s findings and the soil pit investigations undertaken by ENGEO that the valley floors are not loessial but colluvial, and should not cause difficulty. Mr Oliver backgrounded his desktop analysis with a previous example of storm damage reports on the Wither Hills dated April 1980 and a more recent photograph of a home built in the centre of a depositional fan and another with sediment damage August 2008, together with 1948 aerial photographs of the location and the remedial work of loess soils undertaken across the Wither Hills.³⁶
98. Mr Oliver is of the opinion that:
 - Some of the deposition referred to by Dr Campbell appears to have occurred recently – erosion from the valley sides may be the greater risk posed from depositional events to future development.
 - Flooding is a risk in the valleys with the Wither Hills prone to periodic heavy rainfalls. This risk has increased with the probabilities of climate change.³⁷
99. Mr Oliver carried out a further update on the 16th Valley loess soils for inclusion in Topic 14 Soil Sensitive Areas: Waste Water. Mr Oliver attached his report to that topic marked Appendix 1 which Levide had also submitted on seeking the changes identified above.
100. Mr Oliver agrees that Dr Campbell’s colluvial soils show clear evidence of recently deposited material on the surface layers, the deposition driven by gravity and usually mediated by water. He adds: ‘To be clear colluvial soils form a material deposited by landslides or downslope erosion. Often these events occur following heavy rain.’ These factors led Mr Oliver to think that erosion from the valley sides may be a greater risk posed to future development.

³⁵ Levide, Ian Campbell Evidence, page 5.

³⁶ MDC, J Alwin Evidence *Report on Levide Capital Rezoning Request: reply to further evidence submitted* November 2018, Figures 2 and 1.

³⁷ MDC, Soil Disturbance, Matthew Oliver, Evidence, page 4

101. Mr Justice is cited as identifying 'risk' in his original evidence as 'the probability of an event occurring multiplied by the consequences of the event'. Mr Oliver in this context suggests that the probability of a large event occurring has increased with climate change, with the Wither Hills as subject to very high rainfall.
102. Levide seeks removal of part or all of its property from the SSA loess soils overlay. Campbell (2011) mapped to the mid-upper slopes of the area which indicates a mixture of Waihopai and Vernon soils, both erosion prone in their particular way. His work, according to Mr Oliver, did not map the lower slopes of this valley which are indicated in the ENGEO report as appearing to be underlain by variable thickness of loess and loess gravel colluvium.
103. Mr Oliver does not support the proposal that repair of tunnel gully erosion on slopes less than 25° be a permitted activity. While repair of damaged areas is desirable, poorly timed and designed work could pose more risk to downslope landowners than currently exists.

Site Visit

104. The Panel visited the site with the permission of the owner.

Consideration

105. In the course of our deliberations we identified a number of issues:
 - Each of the small sub catchments flowing down into the main stream conclude in colluvial fans with the flows being uncontrolled out onto those fans. That fact raises concerns about control of those flood flows and deposition accompanying them and possible rilling in extreme storm events.
 - The large plantation forest opposite the site is a potential fire hazard with little setback from the stream and this area is likely to become desiccated in drought conditions.
 - The main stream banks are deeply incised and it was asserted will not flood.
 - Significant transmission power lines cross over the site.
 - Standard 3.3.14.4 restricts excavation of loess soils. There are practical concerns about hazard mitigation works and maintaining them (by a corporate body).
 - Mr Justice acknowledged that the probability of tunnel gully erosion on the hill slopes surrounding 16th Valley to be high.³⁸ Mr Oliver's evidence indicated some patches of loess remain on the slopes with the potential to create tunnel gully erosion on the

³⁸ Levide, Thomas Richard Justice, Evidence, paragraph 26.

slopes but in terms of soil erosion risk. According to Mr Justice this would be a relatively slow process.

- The access to the site involves traversing deposition from what appears to be an active loess soil gully.
- There is evidence at the western end of the proposed site of the potential effects of side stream flows.
- Fire fighting capacity is not identified in evidence and water supply appears insufficient, particularly in times of drought.
- In planning terms, there are concerns about soils on the site irrespective of the Levide evidence. The site is partly located in the Soil Sensitive Overlay (loess soils). Policies 11.1.19 and 11.1.21 refer to controlling and avoiding structures on unstable lands by means of zoning. Retaining the land as Rural Environment Zone is one method of achieving this.
- Rules restrict earthworks on loess soils (Rule 3.3.16.12). Practical concerns remain about implementing hazard mitigation works and maintaining them (by a corporate body).³⁹

106. The chief concern of the Panel relates to the presence of loess soils on the property. While Dr Campbell’s evidence promotes development on the grounds of the valley, this does not negate the issue that the loess soils exist on the slopes above the site where 27 residential sites are to be developed. Sporadic urban-type development, infrastructure servicing, waste water disposal on a site intersected by streams all remain in issue but the greatest of all are the potential adverse effects related to loessial soil movement.

Decision

107. Retain zoning as notified.

Zoning Map 160 – 15th Valley – Levide Capital Limited

108. Levide also requested Industrial 2 zoning for an area of 56.4 ha of its land in 15th Valley to the south of the existing industrial zone. Its evidence was that the building development could be achieved without exposure to instability of loessial soils, either as a result of run-off from slopes above or from under-runners and associated tunnel gully erosion effects. Nor it was asserted was there any serious risk from inundation emanating from any of the watercourses flowing down into the mainstream in the valley below. The reasons for these assertions were

³⁹ Section 42A Report, Reply to Evidence, page 5.

particularly based on the relatively level land form as a result of the development of vineyards that had occurred in the floor of the valley over recent years.

109. The submitter's experts pointed to the works that had been undertaken to achieve management of erosion risk and floodwater collection systems by extensive open drainage to enable the vineyard development. They also emphasised what they asserted was the success of those management systems which had meant the vineyard operation had been carried on for some years without damage from those sources. In any event the submitter stressed that warehousing particularly for the wine industry was the most likely outcome and it requires uncomplicated land management systems.
110. As to the demand for industrial land Levide stressed that the uptake of industrial land has been rapid in recent years in Blenheim and its surrounds.

Site visit

111. A site visit was undertaken with the permission of the submitter landowner.

Consideration

112. A major concern as to integrated management of infrastructure in this area was the fact that there is a considerable area of land, land which has already been zoned industrial that has not yet been developed but which has been catered for in terms of Council infrastructure planning for water supply in particular but also in terms of roading patterns and drainage.
113. In terms of water supply, the Panel received a report from Mr Stephen Rooney, the MDC Operations and Maintenance Engineer. He advised that after taking into account the needs of the land already zoned industrial at this location there was no additional capacity from the existing water take and supply system. There is a serious problem in terms of supply in that the Riverlands aquifer is over-allocated already. If this land was to now be rezoned and developed ahead of the land already zoned then the existing zoned area for industrial development would be unable to proceed as there would be insufficient supply for both.
114. For those reasons the Panel is of the view the existing zoned land should be given priority for development over the Levide land.
115. The Panel was also not satisfied that it was appropriate to rely on the evidence of asserted lack of adverse effects of deposition and flood flows on a long term sustainable basis, and it was concerned that there was no long term proposal as to management of those issues if they were indeed to arise after the lots were sold off. The catchments involved are not insubstantial and much clearer evidence of a method of long term management of erosion risk and flow management would be needed before zoning was appropriate for this land.

116. That these are serious issues was stressed in Mr Oliver’s memorandum included as Appendix 2 to the S42A Report which we have quoted in relation to the residential proposal for 16th Valley – (the underlining emphasis at the conclusion is the Panel’s):

In reviewing all of this information, a number of points have become apparent to me. Firstly; the EnGeo report accompanying the Levide Capital submission is insufficient to provide any level of certainty regarding the stability of the soils, and the suitability of those soils for the intended purposes. There is a great deal of soil erosion risk that is not accounted for in this report. Secondly, the EnGeo report identifies similar landscape features as documented in the Riley and MWH reports. It is likely that very similar erosion issues would be identified if a more detailed study were carried out on the 15th and 16th Valley sites. Finally, given the scale of risks identified during the Plan Change 60 process and the fact that the zone change application was eventually declined despite a much more detailed geotechnical report being presented, this would lead me to feel that a precedent has been set. This precedent is that zone changes in these soils require an extraordinarily high standard of geotechnical planning and mitigation to prevent risks to property from erosion.

117. In conclusion, then, while the Panel accepts that the rezoning as requested has potential if a more sophisticated long term engineering management package was developed, those concerns combined with the water supply problem, and the availability of other zoned land in the vicinity for which infrastructure was already available or planned, meant that that potential was not appropriate during the expected life of the PMEP. The issue of the appropriate zoning of this land could be reassessed at time of next plan review.

Decision

118. Retain the Rural Environment zoning in 15th Valley as notified.

Zoning Map 13, - Waters Avenue Area

Section 42A Report

119. The report writer noted the area encompassing the Waters Avenue area had formed part of the Marlborough Growth Strategy. The Strategy did not support a zoning change, stating:
120. Although there was some support for an expansion of the existing industrial zones, the Council decided that any such expansion would create additional conflict between industrial activity already in the vicinity and residential activity.
121. Since the growth strategy was finalised, the landowner has constructed a vegetated earth bund on the boundary between 30 and 34 Waters Avenue and the residential properties along

Birchwood Avenue. The earth bund was constructed to specifically manage cross boundary effects between residential activity on Birchwood Avenue and what the landowner clearly anticipated to be industrial activity on 30 and 34 Waters Avenue.

122. The notified zoning of the general area as specified in the PMEP is therefore consistent with the growth strategy.
123. The Growth Strategy did not support a zoning change.

Site visit

124. A site visit was undertaken by the Panel. The principle observation made by the Panel is that on 33 and 37 Waters Avenue the activity is light industrial pursuant to resource consent controls. The nature of those activities in the Panel's view was best retained subject to conditions because there is no bund to the west of them as there is now to the sites on the other side of the road.

Consideration

125. The potential of a rezone of 30 and 34 Waters Avenue was advanced by submission due to its proximity to the sawmill and the existence of the earth bund. The report writer agreed with this stance.
126. The earth bund development, in the Panel's view, resolved what had been a long standing issue in this area. The land adjacent to such a substantial industrial activity should not be zoned for residential purposes and light industrial as a transition to the residential zoning at Birchwood Avenue is the appropriate outcome.

Decision

127. Decline zoning change of 33 and 37 Waters Avenue.
128. Rezone 30 and 34 Waters Avenue from Urban Residential 3 to Industrial 1.

Zoning Map 15 - Francis Street, Blenheim

Section 42A Report

129. This issue relates to a property on the corner of Francis and Redwood Streets on the northern side of Francis Street. The report recited the recent history of a failed attempt to use a submission on a CBD Variation, with the submission seeking to rezone all of the northern side of Francis Street as Commercial, but which was defeated by residents' opposition. The report did point out, however, that the site is adjacent to a Business zone and that that provided opportunity for integration into that zone as the submitter S & J Saunders Trust sought.
130. However, the report also drew attention to the risk that rezoning of this property might be perceived as the PMEP recognising a shift of Francis Street northern frontage properties

becoming Commercial without there having been a strategic assessment of the appropriateness of that change. The report noted that there would be a potential effect on the residential amenity in Francis Street if that rezoning occurred.

Consideration

131. The Panel heard evidence from Mr Gavin Cooper stressing the practical benefits that arose from the combined ownership of adjacent properties by the Trust, the adjacent commercial environment, and what he asserted would be the limited amenity effects from a rezoning of this one property in an environment with heavy traffic volumes on Redwood Street and existing commercial activity immediately adjacent to the north. His evidence also stressed that any development could be carried out in a manner that did not impact adjacent residential amenity. After hearing that evidence the Panel undertook a site visit.
132. The Panel was not satisfied that the visual amenity effects on neighbours would be able to be protected if rezoning occurred. If a resource consent application was made those effects could be considered in more detail, and amenity effects more readily controlled by conditions of consent if a consent was seen as appropriate having regard to broader policy issues. In addition to the visual aspects, if rezoning was to occur the Panel had real concerns as to how vehicle access could be safely provided for on this corner site having regard to the heavy traffic flows on Redwood Street. Finally, the Panel was concerned that the policy implications for the Plan zonings on both sides of Francis Street had not been more broadly considered as the submission sought only one property being rezoned. The Panel felt a broader assessment of those zoning issues would be required before that could properly be done without undermining the general zoning on both sides of the eastern end of Francis Street which at present provides that eastern end of the street with a residential amenity.

Decision

133. The rezoning request to change the zoning of the property at the corner of Francis Street and Redwood Street from Urban Residential 1 to Business 1 Zone is rejected.

Zoning Map 17 - Stubbs and Carre

Section 42A Report

134. The Section 42A Report was negative in its response to the request of the submitters J.P Carre and D & J Stubbs to rezone this land near the fringe of the eastern side of central Blenheim from Rural Environment to Urban Residential 3 zone. The report pointed out inconsistencies with Policy 12.1.6 as to the purposes of the Urban Residential 3 Zone in that the subject land is not adjacent to Blenheim, the sites have direct access to SH 1 and that services would need

substantial upgrading to service residential development as to both water supply and sewerage servicing. Stormwater retention and disposal was also raised as an issue of difficulty.

Consideration

135. The submitters strongly stressed the heavy level of non-rural activity which had occurred and was being serviced across the State Highway as a result of resource consent applications for vineyard workers. They maintained that their properties were similar in nature and were so small as not to be capable of being utilised usefully for productive rural purposes. They also pointed to the reality of the residential development of land to the south east.
136. After hearing the evidence of submitters the Panel carried out a site visit. While that visit visually supported the points made by submitters about other developments in the area, it also demonstrated that vehicle access safety issues for vehicles entering or leaving the subject land onto SH1 at this location were real. The sites lie in a location where SH1 undertakes a sweeping bend raising visual field of sight limitation concerns. The Panel was not satisfied on the evidence it received that those concerns could be safely addressed.
137. The Panel noted that the Section 42A Report highlighted significant infrastructural constraints in respect of residential development of the site as to water supply and sewerage. Stormwater retention and disposal was also stressed in the report as a serious issue. The Panel was not satisfied that the submitters' evidence satisfactorily addressed the servicing limitations which had been described in the Section 42A Report.
138. As to plan policy provisions there were not only the concerns raised about inconsistency with Policy 12.1.6 which the Panel agreed were of substance, but the provisions of Policy 11.1.17 were also very relevant. That policy provides:

Policy 11.1.17 – Avoid locating residential, commercial or industrial developments on Rural Environment or Rural Living zoned land on the Wairau Plain east of State Highway 1/Redwood Street, unless remediation methods are to be used to reduce the level of liquefaction risk to an acceptable level.

139. It is also apposite to quote from the explanatory statement to that Policy which states:

This policy signals that it would be unwise to allow any future commercial, industrial or multi-lot residential developments to occur on rurally zoned land underlain by the Dillons Point formation due to the high risk of liquefaction. Such liquefaction has the potential to cause significant damage to buildings and infrastructure and would therefore cause significant disruption to residential, commercial or industrial activity. A policy of

avoiding such development of land ensures that significant investments and community infrastructure is not subject to unnecessary risk.

140. For all of those reasons the Panel did not agree with the re-zoning requested.

Decision

141. The request for rezoning of 3020 State Highway 1 and 3038 State Highway 1 from Rural Environment to Urban Residential 3 Zone is rejected.

Zoning Map 76 - Rewa Rewa

Section 42A Report

142. The request by Rewa Rewa Limited to rezone all of Lot 3 DP 403652 from Coastal Environment zone to Coastal Living Zone was initially described in the Section 42A Report and a specific landscape assessment accompanying it as being in conflict with a range of policies, and as being inconsistent in some respects, particularly as to the number of potential allotments, with the property's resource consent history.
143. As a consequence of the evidence presented at the hearing, however, which in particular significantly reduced the area sought to be rezoned so as to relate more appropriately with the resource consent history and the site specific development limitations, the Reply to Evidence supported the more limited request.

Consideration

144. The Panel noted that detailed consideration to appropriate levels of development of this land had occurred when resource consents for subdivision were approved and that it was only because of the downturn in market conditions that meant the subdivision did not proceed.
145. As with the report writer, the Panel was appreciative of the submitter's response to limit the area requested to be rezoned to reflect that resource consent history. The Panel had no reason to form a different view than was reached on the detailed subdivision proposal. This is one of those rare situations where the Panel was prepared to recognise the practicality of using scheduling of a particular property in Appendix 16 with appropriate site specific controls being available using that mechanism. That will enable effect to be given in a plan rezoning way to the past resource consent approvals.

Decision

146. Amend Planning Map 76 to show part of Lot 3 DP 4036523 as Coastal Living and Scheduled Activity.

147. Insert in Appendix 16 the following:

Schedule 5 – Portage - Subdivision of part of Lot 3 DP 4036523

Where not otherwise provided for by, or limited by the rules in Schedule 5 of Appendix 16, the rules of the Coastal Living Zone apply to all activities on the Portage scheduled site.

5.1 Controlled activities

Subdivision of that part of Lot 3 DP 4036523 shown in the map below is a controlled activity subject to the following standards:

1. A maximum of 12 allotments.
2. A minimum net allotment area of 4,000m²
3. A maximum building height of 7.5m above ground level for any building within 50m of Kenepuru Road, and a maximum building height of 6m above ground level for any buildings more than 50m from Kenepuru Road.
4. A maximum building footprint of 300m² on each allotment.
5. A maximum area of the site that can be cleared for buildings and curtilage (excluding access) of 400m².
6. Compliance with relevant subdivision standards of the Coastal Living Zone in Chapter 24 except that Standards 1-6 shall prevail if there is any conflict between these standards and the Zone Standards.

Matters over which the Council has reserved control:

The matters set out in Rules 24.3.1.9 - to 24.3.1.26 of Chapter 24.

5.3 Discretionary Activities

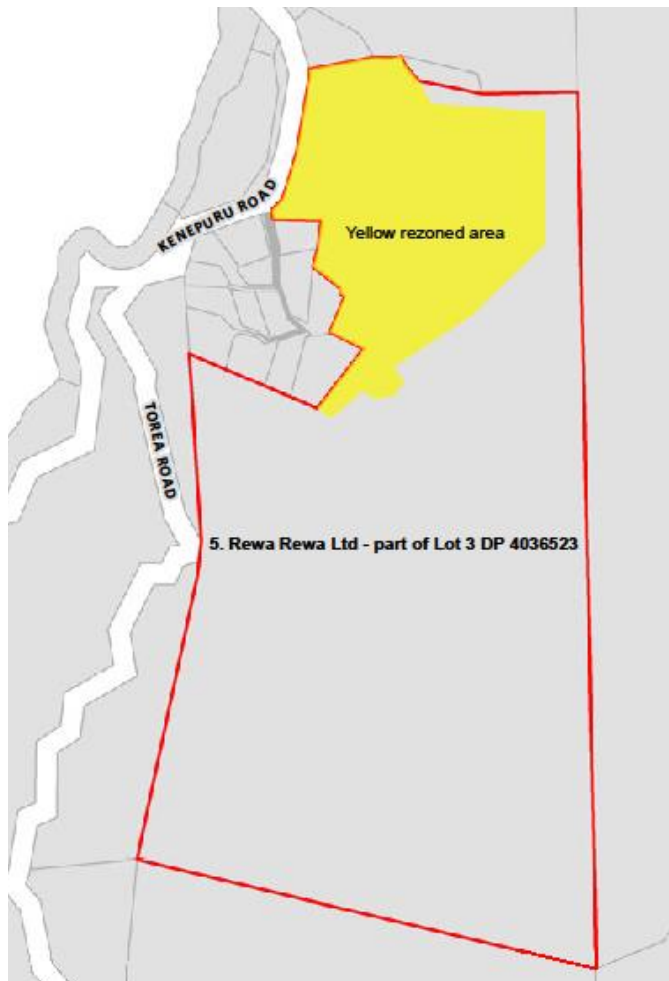
Application must be made for a discretionary activity for the following:

5.3.1 Any activity that does not meet Standards 1- 6 above.

148. Insert a new Permitted Activity rules in Coastal Living Zone as follows:

Specifically identified subdivision listed as controlled on sites contained in Schedule 5 in Appendix 16.

149. Insert the following map in Appendix 16 under the heading Schedule 5 – Portage – Subdivision of part of Lot 3 DP 4036523.



Zoning Map 136 - Nelson Forest

Section 42A Report

150. Nelson Forests Limited submitted against the Coastal Environment zoning of parts of its landholdings in the vicinity of Linkwater and Havelock on the basis that their landholdings were part of a plantation forestry development which now faced the complication of having two differing zonings. The Coastal Environment zone provisions are potentially more restrictive in their controls than the Rural Environment zone on matters relating to forestry development and harvesting. The Section 42A Report stressed that the Coastal Environment zone boundaries had been fixed after assessment of the natural character report. The report writer considered that it was important that there are controls on effects on natural character in that Coastal Environment zone.

Consideration

151. The Panel considered that the Plan's protection of the coastal environment by means of the Coastal Environment zone objectives, policies and rules is appropriate and should not be

affected by property title boundary considerations. The zone's boundaries have been fixed in manner which relate to physical features such as the ridgelines which encompass both water and visual catchments forming the Sounds. That has been done purposefully for the very reason that effects of developments within those ridgelines can potentially impact on the natural character and other qualities of the Sounds' environment and amenity values, which the Plan seeks to protect. In particular, sediment deposition in the Sounds arising from land-disturbance activities is a serious adverse effect requiring controls, as are the potential adverse visual effects of some land based activities particularly involving roading and other land disturbance.

152. The submitter did not provide any logical reason for rezoning of its properties other than a desire to avoid having to cope with two differing sets of controls for the same activity depending on whether parts of the properties it occupies may be within a different zone. That approach misses the point that the Plan is addressing potential effects, and imposes controls where those potential effects may be adverse in terms of natural character impacts on indigenous biodiversity or in visual amenity terms. The Panel is satisfied the Marlborough Sounds is an iconic environment deserving of protection from potential sediment and/or visual effects through reasonable control mechanisms as are contained in the Coastal Environment zone within the Plan.

Decision

153. The rezoning request made opposing the Coastal Environment Zone in respect of land in the vicinity of Havelock and Linkwater areas is rejected.

Zoning Maps 49 and 50 - North Renwick

Section 42A Report

154. The Section 42A Report on the request by the NZIS to rezone large areas north of Renwick for residential development as Residential 3 or Rural Living zones was negative. The request had been made on the basis that the flooding risk on the lower floodplain had been mitigated or removed. However, the Section 42A Report clarified that Council's engineering staff report had still concluded a risk of flooding still existed from Ruakanakana Creek in major flood events. The report referred to four options being explored with the preferred option being to raise the level of an existing bridge over the creek. As that work had not been done yet the report did not recommend the rezoning sought at this stage and commented that if that and servicing issues were resolved in future a plan change process could occur.

Consideration

155. The Panel had no evidence before it that either the flood mitigation works necessary prior to rezoning were complete, or the servicing available as to water supply and sewage disposal. Until those aspects are in hand it would be quite inappropriate to rezone this land.

Decision

156. The request for rezoning of land immediately north of Renwick from Rural Environment Zone to Residential 3 or Rural Living as sought by NZIS is rejected.

Zoning Map 53 - Renwick

Section 42A Report

157. The Section 42A report on the rezoning request for 6 and 8 Alma Street from residential to Business was negative on the basis that while a resource consent had been granted to enable Business type activity on the allotments that enabled controls by way of conditions which would not exist if rezoning occurred. The report emphasised that rezoning would not be consistent with Policy 12.5.1 which aims to ensure that ‘particular characteristics are maintained within the central business area of Renwick including “the core of an urban town, usually anchored around a main street of retail and premier business” and “a wide variety of activities including retail shops, offices, and community facilities”. Reference was also made to policy 12.3.3 which states that business activities in the Urban Residential zones should be avoided unless the vibrancy and function of the Business zones is not detracted from; the site is adjacent to a Business zone; and provides opportunities for integration with a Business zone; and finally to Policy 12.2.1 which relates to the maintenance of the amenity and character residential areas.

Consideration

158. The Panel agreed with the assessment of the Section 42A Report that the effects of current use of 6 Alma Street is best controlled through resource consent processes and conditions. The rezoning requested would be inconsistent with a number of policies relevant to Renwick township and its residential amenity. The retention of controls through consent conditions will provide a buffer between the business zone and the residential zone.
159. However, 8 Alma Street is adjacent to an existing business zone and is part of the same operation and the Panel is comfortable that that property can be rezoned for business purposes.

Decision

160. The rezoning request of land at 6 Alma Street from Residential 2 to Business 1 Zone is rejected but the request for rezoning of 8 Alma Street from Residential 2 to Business 1 Zone is approved.

Zoning Maps 60 and 61 - Wairau Valley Township

Section 42A Report

161. A number of submissions were received seeking changes to the proposed zonings in the notified PMEP and the Section 42A Report assessment commenced by recording that the zoning in the WARMP is similar to the zoning adopted in the PMEP with a few changes. The principal change is an increase of residential land as Urban Residential 2 north of SH63 with less Rural Living/ Rural Residential zoning south of SH 63. In part the report says that outcome has stemmed from servicing limitations and flooding constraints.
162. After detailing the relevant policies for small townships in the PMEP the report writer recommended the following responses to the submission requests:
- i. Rezoning of the Wairau valley tavern to Business 2
 - ii. That the current zonings for residential and rural purposes remain as notified in the Plan to accord with the Plan policies as to small townships.
 - iii. Retention of Business 2 zoning for the sites containing existing commercial nature buildings such as the old garage and store notwithstanding that the businesses in those buildings no longer operate. The report suggests that the current Business 2 zoning leaves open the possibility of new commercial activities without those having to seek resource consent. That appears to the report writer to accord more closely to the Plan policy approach than a rezoning to rural.

Consideration

163. The Panel formed the view that the zoning situation in Wairau Valley largely reflected historical patterns of development and use which have been limited in density and somewhat sporadic, although more concentrated around the State Highway and the township. That has resulted in a small Business 2 Zone, a residential provision which largely reflects current development but with some limited room for expansion particularly to the north of the township and SH 63. The policies in the PMEP which apply to such small townships tend to emphasise recognition and support of existing low intensity development, an informal appearance and services and facilities for both locals, visitors and the wider rural population. The Panel is satisfied that when assessed against those policies the PMEP zonings proposed

are consistent with that policy approach and it did not receive sufficient evidence to warrant any general change.

164. The sites of the defunct petrol station and associated store are not straightforward in terms of those policies as they have not operated for a long period. Moreover, the buildings are commercial in nature and still exist. Rural zoning, therefore, does seem more appropriate than Business 2 zoning as it would still enable some form of light industrial/commercial use of the buildings to be considered in future but in a manner controlled by resource consent conditions.
165. The Wairau Valley Tavern site it is agreed should be zoned in a manner which better reflects its actual business use and longstanding existence, rather than the notified Rural zoning.

Decision

166. Rezone the Wairau Valley Tavern site (Part Lot 1 DP 3204) from Urban Residential to Business 2 Zone.
167. Rezone the old petrol station and associated store sites from Business 2 to Rural Environment.
168. Otherwise retain zonings in and around Wairau Valley township area as notified.

Zoning Map 64 - Sanford - Okiwi Bay

Section 42A Report

169. The Section 42A Report on Sanford's request to rezone its site at Okiwi Bay from Residential zoning to Business zoning to reflect the actual commercial activity carried on, was negative.
170. The reasons for that negative response were that effectively a rezoning would be 'micro-zoning' for one site in a large residentially zoned area; that outcome was not desirable if it could give rise to other potential adverse effects from future permitted activities inconsistent with the amenity provided by the surrounding zone; the activity operated at present under resource consent controls which were the best way of controlling effects of the activity.

Consideration

171. The Panel was concerned that if the property was rezoned that would enable other activities to possibly commence on part or all of the site which might have significant uncontrollable amenity effects on the surrounding residential zoned land. Given the surrounding residential use, the Panel agreed with the report writer's view that the present method of control of effects of activities through tight resource consent conditions was the best way to enable the activity to continue while protecting the zoning amenity in the surrounding residential zone.

Decision

172. The request for the Sanford site to be rezoned Business zone is rejected.

Zoning Maps 6, 7, 12 and 13 - David Street

Section 42A Report

173. The Section 42A Report provided a detailed background to the conflict in views between submitters as to whether the proposed PMEP zoning treatment of this area predominantly for lower density residential development should be upheld. That background is complex and does not need repetition in this decision as the thrust of the report was to emphasise that the physical constraints of the past centred on land stability, servicing, stormwater disposal issues have been practically and effectively addressed in the PMEP by the development of a planning mechanism through specific policies and rules which apply to Appendix 23 areas. That approach has ensured that subdivision of this potentially difficult land is made a discretionary activity with Council having no restrictions on the matters it can consider. All the physical constraint issues are specifically identified in the policies and/or rules coupled with Appendix 23 and are required to be addressed by any potential developer a part of the consenting process.
174. As a consequence the report writer recommended the policies, rules, and zonings for the Appendix 23 areas provided sufficient safeguards to enable integrated development of infrastructure to enable the rezonings proposed in the PMEP to stand.
175. As for the concerns expressed by some submitters that they wished to continue their horticultural activities on their larger allotments the report writer pointed out existing use rights provided the protection the submitters desired.

Consideration

176. The Panel was concerned to ensure that physical limitations which had historically restricted the ability of these areas to develop had been properly addressed in the PMEP. The Panel is satisfied that the policies referred to by the report writer when coupled with the site specific controlled approach in the policies and rules applying to the Appendix 23 areas enables use for future residential purposes of land relatively close to the town centre.
177. The Panel has heard evidence on the high level of demand for residential land close in to the centre of town in Blenheim and the rapid rate at which existing residentially zoned land has been developed over the last one to two years. This is a large area of land which given proper development methods can be utilised for residential purposes, with existing users having existing use rights at law to continue their horticultural activities.

Decision

178. The Urban Residential 2 zoning provisions coupled with Appendix 23 as notified in the Plan are to be retained as notified.

Zoning Map 140 - Opihi Bay

Section 42A Report

179. A submission had been made by New Zealand Forest Products Holdings Limited opposing the Coastal Living zoning on the basis that the present use of the land was for commercial forestry. The submission also sought removal of protection for a significant ecological area which the report assumed related to the identification of W1044 on the overlay maps. The report drew attention, however, to the fact that the land owner held a subdivision consent granted in 2016 (U160023.1) which enabled subdivision of the property into 25 allotments one of which was intended to protect the wetland area as a reserve.
180. The report writer did not recommend the deletion of the wetland identification, but did recommend a change in zoning from Coastal Living to Coastal Environment zone.

Consideration

181. The Panel was concerned that when an active subdivision consent was still extant, (lapse date being 10 June 2021), the change in zoning would mean lesser standards would apply if the subdivision proceeded under the new zoning requested. The Panel, therefore, issued Minute No. 60 on 2 May, 2019 requesting that the submitter make it clear if it intended to surrender the subdivision consent and if so when. No response was forthcoming.
182. The Panel was not satisfied that appropriate controls would exist for the allotments on the subdivision if a rezoning occurred. Given the fact that the Council could not compel the surrender of that consent, and given its continued existence, the Panel decided the only way to control effects for each allotment on the subdivision was to retain the proposed zoning.

Decision

183. The requests for rezoning from Coastal Living Zone to Coastal Environment Zone on Lot 1 DP467695 and for removal of W1044 are rejected.

Definitions

Key Matter – General

184. The Section 42A Report identifies that the Ministry for the Environment was in the process of preparing mandatory National Planning Standards which Councils will be required to adopt. The National Planning Standards came into effect on 3 May 2019, however these have not been adopted by the PMEP Panel because a major alignment exercise is required. This will need to take into account the decisions of the Panel.
185. Instead the Panel has relied on evidence from submitters on the notified definitions which were notified prior to the proposed National Planning Standards. Where the definitions in the

PMEP are different to those in the NPS the Council will have to align those definitions to the standards within the next 10 years.

186. NZTA requested that in every case the National Planning Standard definitions be adopted.

Decision

187. Except to the extent recorded in particular topic decisions by the Panel, it decided not to adopt in every case the National Planning Standard definitions and leave that to the alignment process which, as a matter of statute, Council will be required to follow over the next ten years.

188. Defined terms are hyperlinked to the appropriate definition in the MEP EPlan.

Key Matter – Height

189. Spark and Chorus disagree with the Section 42A Report recommendation on height and seek that GPS and lightning rods be excluded from its definition.⁴⁰

190. The report writer considers that amending the definition so that GPS units and lightning rods will enable consistency for situations when GPS units and lightning rods are placed on structures in situations not covered by the NES for telecommunications. He is satisfied that the additional information provided by Mr McCarrison demonstrates that these units are small and will not give rise to any adverse effects on the environment, and in many cases will be indiscernible. The Panel agrees.

Recommendation and decision

191. ‘Height’ is amended as follows:

Height in relation to a building or structure, means the vertical distance between the natural ground level at any point and the highest and best use part of the building or structure immediately above that point as shown in Figure 2 of Appendix 26. This definition does not apply to lightning rods or GPS equipment units affixed to the highest and best use part of a network utility or radiocommunication or meteorological or telecommunication building or structure.

192. The definition of ‘Telecommunication facility’ is amended as follows:

...facility, ~~or apparatus,~~ GPS equipment units and lightning rods intended for the purpose...

⁴⁰ Spark (1158.68) and Chorus (464.76), Graeme McCarrison, Joint Statement of Evidence, paragraph 3.3.

193. Insert new standards in network utilities 2.39.X as follows:

2.39.1.15. Any GPS unit associated with the network utility infrastructure must not exceed 300mm in height or 130mm in diameter

2.39.1.16. Any lightning rod associated with the network utility infrastructure must not exceed:

(a) In residential zones, 650mm in height or 60mm in diameter; or

(b) In all other zones, 1500mm in height and 60mm in diameter.

194. The definition of telecommunication facility is amended to read:

Telecommunication facility means any telephone exchange, telephone booth, telephone cabinet or pay phone, or any other structure, facility or apparatus intended for the purpose of effecting telecommunication, and includes any associated GPS unit or lightning rod.

Key Matter – Site

195. Several submitters have all submitted in relation to the definitions of ‘Site’, and seek that there only be one definition, rather than the four which were notified in the MEP. The submitters generally all seek the rationalisation of the definitions and that there be one clear and concise definition.⁴¹

196. Specifically, Fonterra Co-operative Group Limited seek to delete the following definitions of site:

Site - ‘where in the context it is appropriate, includes an area or place or river reach.’

Site ‘means a place or area where an activity takes place.’

Site ‘in relation to frost fans, has the meaning of single land holding.’

Section 42A Report

197. Having reviewed the PMEP and the relevant definitions, the report writer that it is unnecessary to have numerous definitions, when they can be combined.

198. He considers that the definition for ‘Site’ in relation to frost fans should be deleted and instead, the provisions should refer to ‘Single Land Holding’. This is already defined (as shown below), and achieves the intent of the present definition of ‘Site’ as it relates to frost fans.

199. Single land holding means an area of land held in either:

⁴¹ Chorus New Zealand Limited (464.81), KiwiRail Holdings Limited (873.182), Spark New Zealand Limited (1158.73), Fonterra Co-operative Group Limited (1251.154, 155, .156 and .157) and Federated Farmers of New Zealand (425.423).

- (a) *One Computer Register; or*
- (b) *More than one Computer Register where*
 - *the land in the various Computer Registers are held in common ownership or leased under the same lease; and*
 - *the land in the Computer Registers or lease are contiguous to each other; or*
 - *the Computer Registers are held together by a covenant under Section 220 RMA.*

Consideration

- 200. The report writer considers that the remaining definitions of ‘Site’ can be deleted, and replaced with a single definition that captures the intent of the notified versions. He notes that the definition of ‘site’ is also included in the draft National Planning Standards, with minor modifications. This definition follows, with an additional clause (f) to capture issues around Right of Way boundaries (which is part of the existing definition of site in the PMEP) and clause (g) to cover situations where there may not be a Title for the property (which is also referred to in existing definitions of site).
- 201. The report writer acknowledges that this definition has similarities to the PMEP’s definition of ‘Single Land Holding’. However, that definition is specific to frost fans and he is comfortable that it remains for that purpose.
- 202. The report writer notes that ‘Single Land Holding’ is currently only used in two bird scaring device provisions and is not used in Volume 1 of the PMEP. Deleting the use of frost fan ‘site’ and using ‘single land holding’ will necessitate changing of six provisions in Volume 2, as follows:

Rural Environment Zone

3.2.4.1 Any new noise sensitive activity located within 300m of any frost fan not within the same ~~site~~ single land holding must be designed and constructed....

3.2.4.4 For the purposes of Standards 3.2.4.1, 3.2.4.2 and 3.2.4.3, ‘frost fan’ includes any lawfully established frost fan, and includes a proposed frost fan for which a resource consent has been granted ~~and ‘site’ has the meaning of ‘single land holding’.~~

Coastal Environment Zone:

4.2.3.1 Any new noise sensitive activity located within 300m of any frost fan not within the same ~~site~~ single land holding must be designed and constructed...’

4.2.3.4. For the purposes of Standards 4.2.3.1, 4.2.3.2 and 4.2.3.3, 'frost fan' includes any lawfully established frost fan, and includes a proposed frost fan for which a resource consent has been granted ~~and 'site' has the meaning of 'single land holding'~~.

Rural Living Zone:

8.2.3.1. Any new noise sensitive activity located within 300m of any frost fan not within the same ~~site~~ single land holding must be designed and constructed...

8.2.3.4 For the purposes of Standards 8.2.3.1, 8.2.3.2 and 8.2.3.3, 'frost fan' includes a lawfully established frost fan, and includes a proposed frost fan for which a resource consent has been granted ~~and 'site' has the meaning of 'single land holding'~~.

Amended definition

203. The proposed definition as contained in the draft National Planning Standards, however, removes references to front and corner sites, as these are not utilised in the PMEP and are commonly understood.

Site means:

- a) an area of land comprised in a single record of title as per Land Transfer Act 2017;
or
- b) an area of land which comprises two or more adjoining legally defined allotments
In such a way that the allotments cannot be administered separately without the prior consent of the council; or
- c) the land comprised in a single allotment or balance area on an approved survey plan of subdivision for which a separate computer freehold register could be issued without further consent of the Council; or
- d) in the case of land subdivided under the Unit title Act 1972 or the cross lease system, a site is deemed to be the whole of the subject land to the unit development or cross lease; or
- e) an area of land comprised in two or more records of title adjacent to each other where an activity is occurring or proposed; or
- f) where a right of way is employed, the line(s) defining the extent of that right of way on a survey plan must be treated as a legal boundary for the purpose of bulk and location controls for buildings; or

- g) *where there is no computer freehold register for a property, the place or area where the activity takes place.*

204. Some other minor amendments are required in the Panel's view which will become clear below in the Panel's decision.

Decision

205. The definition of 'site means' is replaced with the following:

Site means:

- a) an area of land comprised in a single record of title (as per Land Transfer Act 2017); or
- b) an area of land which comprises two or more adjoining legally defined allotments in such a way that the allotments cannot be administered separately without the prior consent of the council; or
- c) the land comprised in a single allotment or balance area on an approved survey plan of subdivision for which a separate record of title could be issued without further consent of the Council; or
- d) in the case of land subdivided under the Unit title Act 1972 or the cross lease system, a site is deemed to be the whole of the land subject to the unit development or cross lease; or
- e) an area of land comprised in two or more records of title adjacent to each other where an activity is occurring or proposed; or
- f) where a right of way is employed, the extent of that right of way on a survey plan shall not be included as the legal boundary but instead the inner boundary of the right of way closest to the building shall be treated as a legal boundary for the purpose of bulk and location controls; or
- g) where there is no record of title for a property, the place or area where the activity takes place.

206. As a consequential change amend the rules 3.2.4.1, 3.2.4.4, 4.2.3.1, 4.2.3.4, 8.2.3.1 and 8.2.3.4 as follows:

3.2.4.1 Any new noise sensitive activity located within 300m of any frost fan not within the same site single land holding must be designed and constructed....

3.2.4.4 For the purposes of Standards 3.2.4.1, 3.2.4.2 and 3.2.4.3, 'frost fan' includes any lawfully established frost fan, and includes a proposed frost fan for which a resource consent has been granted ~~and 'site' has the meaning of 'single land holding'~~.

Coastal Environment Zone:

4.2.3.1 Any new noise sensitive activity located within 300m of any frost fan not within the same ~~site~~ single land holding must be designed and constructed...'

4.2.3.4. For the purposes of Standards 4.2.3.1, 4.2.3.2 and 4.2.3.3, 'frost fan' includes any lawfully established frost fan, and includes a proposed frost fan for which a resource consent has been granted ~~and 'site' has the meaning of 'single land holding'~~.

Rural Living Zone:

8.2.3.1. Any new noise sensitive activity located within 300m of any frost fan not within the same ~~site~~ single land holding must be designed and constructed...

8.2.3.4 For the purposes of Standards 8.2.3.1, 8.2.3.2 and 8.2.3.3, 'frost fan' includes a lawfully established frost fan, and includes a proposed frost fan for which a resource consent has been granted ~~and 'site' has the meaning of 'single land holding'~~.