

Proposed Marlborough Environment Plan

Section 42A Hearings Report for Hearing Commencing 10 September 2018

Addendum to Report dated 16 August 2018

**Report on submissions and further
submissions**

Topic 14: Waste and Discharges to Land

**Report prepared by
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Introduction

1. My name is Matthew McCallum-Clark. I am a Resource Management Consultant and a director of the firm Incite, which has offices in Auckland, Wellington, Nelson, Dunedin and Christchurch. My qualifications and experience are as follows:
2. I hold a Bachelor of Laws from Canterbury University, a Bachelor of Commerce (Economics) from Otago University and have undertaken a postgraduate diploma in Environmental Auditing through Brunel University in the UK. I am also a qualified and experienced independent hearing commissioner with chair endorsement under the Ministry for the Environment's Making Good Decisions Programme.
3. Apart from a short period at a city council, I have been a resource management consultant for about 24 years. Over the last ten years I have specialised in providing policy advice to a range of clients, particularly local authorities. This has included significant involvement in regional plan development for the Waikato, Canterbury and Southland Regional Councils, as well as a lead planner role with respect to the Hurunui District Plan. I have also reviewed and prepared submissions on a number of proposed district plans, including for Queenstown-Lakes District, Southland District, and the Christchurch District Replacement Plan.
4. I was not involved with the preparation of the MEP. I was contracted by the Marlborough District Council (Council) in August 2017 (after the MEP submission period had closed) to evaluate the relief requested in submissions and to provide recommendations in the form of a Section 42A report.
5. I have read Council's Section 32 reports and other relevant Section 42A Reports.

Code of Conduct

6. I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note and that I agree to comply with it.
7. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.
8. I am authorised to give this evidence on the Council's behalf.

Scope of Report

9. This report is an addendum to the report titled 'Report on Submissions and Further Submissions, Topic 14: Waste and Discharges to Land' dated 9 August 2018. Following the completion of the original report it was identified that two additional submissions logged against the Chapter 2 General Rules, Discharges to Air, should have instead been addressed in the Waste and Discharges to Land topic.
10. This addendum report should be considered in conjunction with the report of 9 August 2018.

Analysis of additional submissions

11. The two submissions that need to be assessed are from KiwiRail Holdings Limited (873.97) and New Zealand Defence Force (992.38). Both submissions relate to the Discharge to Air provisions in Chapter 2 of the MEP.
12. The Discharge to Air provisions in Chapter 2 apply to the rail and road corridors identified on the zoning maps and the only permitted activity rule and standards relate to the application of agrichemicals.

13. KiwiRail Holdings Limited state that clarity is required to confirm the provisions listed only apply to the road and rail corridors or to zoned land as well. KiwiRail Holdings Limited state that there are zone provisions related to discharges to air but in zones such as Port Zoned land at Picton, it is uncertain which air discharge provisions apply. KiwiRail Holdings Limited have sought an amendment to the statement below the heading 'Discharge to Air' as follows:

These activities apply only to roads and railway corridors identified on the zoning maps. Zone provisions for discharges to air do not apply to roads and railway corridors.

14. New Zealand Defence Force also consider that the provisions are unclear and are confusing as there are also discharge to air provisions located in different sections of the MEP. New Zealand Defence Force also request an amendment to the sentence below the first heading to specify it is only the road and railway corridors where the provisions apply.
15. These provisions have been assessed in paragraphs 335 to 338 and paragraphs 355 and 356 of the original Section 42A report. As outlined in these paragraphs, it is my understanding that the intention of these provisions was to authorise the discharge of agrichemicals to land to allow for weed management in the road and rail corridors. As the road and rail corridors are not zoned, the discharge of agrichemicals to land would require a consent under Section 15 of the Resource Management Act 1991 if there was no permitted activity rule. As the transport corridors are not zoned, the permitted activity rule has been included in the 'General Rules' chapter.
16. As outlined in paragraphs 355 and 356 of the original Section 42A report, I have recommended that the heading in Chapter 2 is amended to refer to 'Discharge to Land within the road and rail corridors' and Rule 2.23.2 is amended to state 'Any discharge to land within the road and rail corridor not provided for as a Permitted Activity'. I consider that these amendments address the concerns raised by KiwiRail Holdings Limited and New Zealand Defence Force as they clarify where the provisions apply.

Appendix 1: Recommended decisions on decisions requested

Submission Number	Submission Point	Submitter	Volume	Chapter	Provision	Recommendation
873	97	KiwiRail Holdings Limited	Volume 2	2 General Rules	2.	Accept in part
992	38	New Zealand Defence Force	Volume 2	2 General Rules	2.	Accept in part