

Marlborough Sounds Resource Management Plan

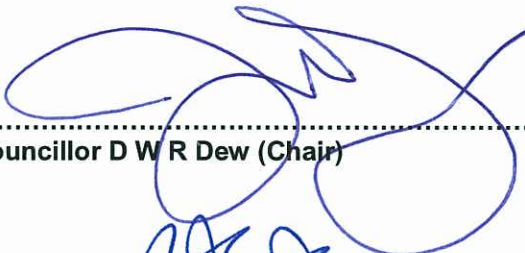
Decision on Plan Change No. 26: Minor Amendments to the Marlborough Sounds Resource Management Plan

This document contains the decisions of the Marlborough District Council on plan change 26 to the Marlborough Sounds Resource Management Plan.

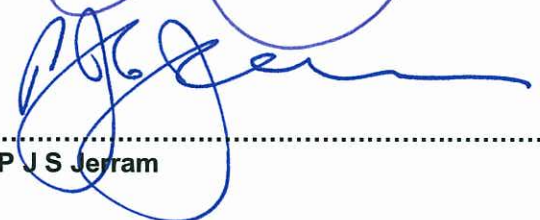
Included as part of this decision is the reasons and amended Schedule of Changes

DECISION DATE: 11 October 2013

Decision made under delegation (Minute R.12/13.336) from the Marlborough District Council by Sub-Committee members



.....
Councillor D W R Dew (Chair)



.....
Councillor P J S Jerram



.....
Councillor J A Arbuckle



.....
Councillor G S Barsanti

Dated this 11 Day of October 2013

Introduction

Plan Change 26 is a Council initiated change to the Marlborough Sounds Resource Management Plan (MSRMP or the Plan) made under Part 2 of the First Schedule of the Resource Management Act 1991 (RMA).

The purpose of Plan Change 26 is to introduce a number of minor additions and alterations to the provisions of the MSRMP in order to remove redundant provisions and provide greater clarity in the administration of a number of existing provisions.

The Plan Change was notified on 22 November 2012, with the submission period closing on 21 December 2012. Within this period, 15 submissions were received. A summary of the submissions received was publicly notified on 14 March 2013, with the further submission period closing on 28 March 2013.

Plan Change 61 proposed changes to the Plan covering the following items:

1. Definition of " Family Flat"
2. Setbacks from water bodies for reasons other than avoiding flood hazard
3. Clarify that Utility provisions apply to "requiring authority"
4. Subdivision Chapter (Chapter 27)
5. Amendments to the permitted marine farming rules
6. Definitions of wineries, distilleries and breweries in Rural Environments
7. Amendment to definition of "Home Occupation"
8. Include drainage channels in the rules requiring discharge setbacks from water bodies
9. Remove references to a "Hazards Register" as none exists
10. Garden maintenance.

Hearing Process

A hearing of submissions was held in the Council Chamber before an appointed committee on the 14 August 2013. The Committee consisted of Councillor Dew (Chair), Councillor Jerram, Councillor Arbuckle and Councillor Barsanti. The Committee was given delegated authority to make decisions on the submissions to the plan change.

Submissions were presented at the hearing by the following submitters:

Submitter	Item(s)
Debs Martin on behalf of Royal Forest and Bird Protection Society New Zealand	2
Steve Wilkes on behalf of Wilkes RM Solutions, Marama Irrigation Co Ltd and Blind River Irrigation Co Ltd	6
Mike Newman on behalf of the New Zealand Association of Radio Transmitters	3
Kaye Hannagan on behalf of the Marlborough Amateur Radio Club	3

Paul Rennie	3
Robert Nicoll	3
Robin Carter on behalf of M G Wooding and himself	3
Khalid Suleiman on behalf of Richard Evans and himself	1, 4, & 8
Tony Hawke on behalf of New Zealand Institute of Surveyors Nelson Marlborough Branch	1
Quentin Davies on behalf of Marine Farming Association Incorporated	5

Committee Decisions & Reasons for Decisions

The following decisions address the issues raised on each of the items included in the Plan Change. All decisions made by the Committee were unanimous.

Item One - Definition of “Family Flat”

The Committee considered it is appropriate and necessary to include a new definition to both restrict the size of a family flat and clarify that family flats are intended to house family members of someone occupying the principle residential unit on the property. This emphasises that a family flat is an ancillary use to the principle residential activity on the site. The absence of a definition for a Family Flat gives scope for inconsistencies in the interpretation of the Plan and its administration. The net result could be the undermining of the basic tenet of one dwelling per site and a reduction in amenity as it relates to density and open space.

Mr Sulieman submitted that rather than limit the family flat by floor area that it should be limited to two bedrooms. As he felt that a family flat is not a precursor to a subdivision and that the size restriction proposed was arbitrary. As a 140m² flat would not have any greater effects could arguably be the same as a building of 70m².

“Means a building used to accommodate a family member of a person residing in the principal residential unit on the property with a maximum size of two bedrooms and gross floor area smaller than the principal residential unit”.

In reaching its decision the Committee considered that a limit on floor area is straightforward and a reasonable approach to use. It clearly makes a distinction between a family flat and second residential dwelling.

The Committee also accepted the argument that if it was to allow for more than one family member or a caregiver then an increase in size to 80 m² floor area would be appropriate. Making a restriction on floor size on the basis of the number of bedrooms even if limited to being smaller than the principle dwelling would be more uncertain in terms of scale and amenity effects. If someone had a need for a larger family flat they were still able to go through the consent process.

Therefore the decision of Committee is that the definition of “Family Flat” be inserted into Chapter 25 as follows:

Family Flat means a building of less than 80m² gross floor area used to accommodate up to two family members or a caregiver of a person residing in the principal residential unit on the property.

Item Two - Setbacks from water bodies for reasons other than avoiding flood hazard

The current Plan provisions require that buildings be set back a minimum of 8 metres from lakes, rivers and wetlands. This setback is currently limited to the purpose of avoiding natural hazards only. The Committee is of the view that the rule should have a wider application for riparian management.

A wider application of the rules enables the Council to exercise full discretion when determining any resource consent application to locate or build a structure within 8 metres of a water body. This will allow Council to consider the effects of such a structure on matters such as natural character and amenity values.

The protection of the landscape values and the character and amenity of the urban and rural environments in the Marlborough Sounds area is a common theme throughout the Plan. By allowing the Council to exercise full discretion when determining any resource consent application to locate or build a structure within 8 metres of a water body. The proposed amendments is consistent with Chapters 5 (Landscape), 10 (Urban Environment), 11 (Rural Environments) and 23 (Subdivision and Development) or the Plan.

The decision of the Committee is as follows:

- i) Replace the heading “Hazards” with “Flood Protection/Riparian Management” in Rules 29.1.1, 30.1.7, 31.1.2.7, 32.1.6, 33.1.9, 34.1.8, 35.1.1.5, 36.1.3.3, 37.1.2.7 and 38.1.9*
- ii) Delete the heading “Flood Protection” from Rules 29.1.4.2, 30.1.7.2, 31.1.2.7.2, 32.1.6.2, 33.1.9.2, 34.1.8.2, 35.1.1.5.2, 36.1.3.3.2, 37.1.2.7.2 and 38.1.9.2*
- iii) Delete “river or” and except for those rivers identified in the Schedule in Appendix I and the Ecology maps in Volume Three” from the limited discretionary rules 29.2.1, 30.3.1, 32.3.1 and 34.3.1; and*
- iv) Delete the final bullet point of the list of limited discretionary activities from Rule 33.3.1.*

Item Three – Clarify that Utility Provisions apply to “requiring authority”

As the rules are currently worded it is possible to interpret them as allowing any person to undertake the installation of a utility. In addition Rule 27.1.1 provides for the subdivision of a utility as a permitted activity.

In order to address this issue it was proposed to insert a definition of ‘Utility’ to clarify that the utility provisions in the Plan relate to network utility operators.

The definition proposed was:

Utility	Means a network utility operation undertaken by a requiring authority as those terms are defined in Section 166 of the Resource Management Act 1991.
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The Marlborough Amateur Radio Club and the New Zealand Association of Radio Transmitters opposed this proposed amendment. The submission of the New Zealand Association of Radio Transmitters was supported by 26 further submissions.

The Amateur Radio interests submitted on the benefits of the Amateur Radio Service some of which are the assistance it provides to local organisations and events, the important role they play in civil defence and emergency management, and the research and development of communications technologies. And that they relied on the provisions for Utilities to enable them to erect effective antennas required for them to undertake their activities. The submissions were presented in a professional manner and clearly demonstrated how passionate the Amateur Radio operators were about their activities.

Some of the submitters suggested ways that Amateur Radio could be accommodated in the plan and discussed how the issues in relation to Amateur Radio had been debated in other districts and volunteered amendments to the plan based on these experiences.

It was felt by the Committee that the suggested changes were beyond the scope of what was notified by this proposed plan change and would be better dealt with as part of the plan review.

Submissions to the equivalent provision in the WARMP that were heard at the same time identified that the definition as notified could negatively impact on those network utility operators who did not have requiring authority status. As they could be excluded from undertaking their functions under the proposal.

In order to achieve a consistent approach to the management of utilities across the District it is appropriate that the same definition be used in both the WARMP and MSRMP. Although the approach to the definition was in response to TrustPowers submission on the WARMP, the Committee took a holistic approach to defining utility given that the term is used in the same context in Volume 1 and Volume 2 in both Plans. This approach ensures more integrated management of utilities and their effects on the surrounding environment.

The decision of the Committee is that:

The Plan be amended by adding the following definition for “Utility” into Chapter 26 of the Plan:

Utility means a network utility operation as that term is defined in section 166 of the Resource Management Act 1991.

Item Four – Subdivision Chapter (Chapter 27)

Item 4.1 Removal of references to compliance with Assessment Matters

The Rules relating to controlled and discretionary subdivision activities (Rules 28.2 and 28.3) identify that, in order to be qualified as a controlled or discretionary activity, some existing Assessment Matters must be complied with. This is an inappropriate application of Assessment Matters as they are not matters which Council has reserved control or discretion over.

The submission of the Marlborough District Council and the New Zealand Institute of Surveyors identified that the incorrect rule was referenced in Rule 27.2 (Controlled Activities) and should be Rule 27.2.5.

The corrections requested by the submitters are appropriate as they identify the correct rule. The decision of the Committee is to amend the Plan by amending Rules 27.2 as follows:

Rules 27.2

If subdivision proposals for these zones meet all of the following standards and assessment criteria (Rules 27.2.1, 27.2.2, 27.2.3, 27.2.4, 27.2.5). The Council will reserve control over the matters prescribed in Rule 27.2.5.

Item 4.2 Clarification regarding building platforms

The Plan requires a building shape factor to be accommodated in each lot in order that it can be demonstrated a suitable building platform of reasonable dimensions is available on each site. The purpose of this proposed plan change was to ensure that a building platform does not intrude into yard setbacks or easements.

The New Zealand Institute of Surveyors Nelson/Marlborough Branch submitted that the amendment as notified would result in an increase in the width of lots created in order to provide the necessary building platform and an appropriate area for setbacks.

It is agreed as stated in the Section 42A Report that the amendment will result in an increase to the width of lots in order to demonstrate that a suitable building platform is available on each site. It is also accepted that setback requirements cannot be calculated with certainty at subdivision stage as setbacks

depend on the actual dwelling determined by the orientation of the lot and recession planes. The subdivision of existing lots based on a minimum frontage could also be difficult given the increased “width” requirements.

It is the view of the Committee that the Plan Change may not be appropriate in achieving the outcomes sought. However to assist in addressing the issue, it has been decided to make an addition be made to the existing note that draws attention to the need to comply with setbacks and easements as recommended by the Section 42A Report.

The decision of the Committee is that:

The Plan be amended by inserting the following note 3 to Tables 27.2.1 and 27.3.1 as follows:

³ The minimum building shape factors may be applied anywhere within the proposed allotment. Any building located within the building platform shape factor must comply with the bulk and location requirements of the respective zones and comply with the requirements of any easements.

Item 4.3 Access Standards – Restricted Discretionary Activity

Rule 27.3.2 of the plan sets out access standards. The access standards relating to the Sounds Residential Zone and the Town Commercial Zone have been combined into the one part, resulting in some confusion. The standards for 3-6 Lots in the Sounds Residential Zone are also missing. The Plan Change proposed to separate the standards and add in provision for 3-6 Lots in order to remove confusion.

Plan Change 26 proposes to amend Rule 27.3.2 as follows:

Zone	No. Lots served	Min Width (metres) see note 3 below	Min sealed width (metres)	Qualification
<i>Sounds Residential (also applies to Town Commercial)</i>	<i>1 & 2</i>	<i>3</i>	<i>NA</i>	<i>NA</i>
	<i>1-4</i>	<i>5</i>	<i>5</i>	<i>NA</i>
	<i>3-6</i>	<i>5</i>	<i>NA</i>	<i>Width allows passing</i>
<i>Town Commercial</i>	<i>1-4</i>	<i>5</i>	<i>5</i>	<i>NA</i>

Mr Sulieman submitted that the access standards differ from Table 3.2 in the New Zealand Standard for Land Development and Subdivision Infrastructure (NZS4404:2010). His view was that the access requirements should be in keeping with the New Zealand Standard for Land Development and Subdivision Infrastructure (NZS4404:2010).

The Committee concluded that the amendments are appropriate as they remove confusion and improve the administration of the access standards. The standards for the 3-6 lots in the Sounds Residential Zone are realistic given the need to allow for passing. The standard is consistent with Marlborough District Council Plan standards and with the relevant New Zealand Standards.

The decision of the Committee is that the changes as notified be used (see above).

Item 4.4 – Access Standards – Local Government Act

A number of notes in Rules 27.2.2, 27.3.1 and 27.3.2 refer to Section 321 of the Local Government Act, which has been repealed.

No submissions were received on this item.

The decision of the Committee is that as Section 321 of the Local Government Act has been repealed it is appropriate to remove references to it from the plan.

That the plan be amended by the following:

- i) Delete Note 3 from Rule 27.2.2 as follows:

~~³Where no frontage is available the Council must be able to issue a certificate under section 324 of the Local Government Act 1974, to confirm that legal access is available.~~

- ii) Delete Note 2 from Rule 27.3.1 as follows:

~~²Where no frontage is available the Council must be able to issue a certificate under section 324 of the Local Government Act 1974, to confirm that legal access is available.~~

- iii) Delete Note 3 from Rule 27.3.2 as follows:

~~³Where no frontage is available the Council must be able to issue a certificate under section 324 of the Local Government Act 1974, to confirm that legal access is available.~~

Item 4.5 – Cross Lease or Unit Plan Subdivisions

At present there is no rule in the MSRMP that provides for the re-subdivision of properties subject to a cross-lease or Unit Title Plan into freehold titles. There is such a rule in the Wairau/Awatere Resource Management Plan, and it is an oversight that this rule was not included in the MSRMP.

No submissions were received on this item.

It is considered by the Committee that in the absence of submissions it is appropriate to accept the proposed plan change as it will assist in the improved administration of Council's resource management plans by bringing it the MSRMP into alignment with the Wairau/Awatere Resource Management Plan.

The decision of the Committee is that the Plan be amended by adding the following under Rule 27.2.3.3:

The re-subdivision of existing cross-lease or unit title plans to obtain individual freehold titles shall be a controlled activity, providing there is no physical change to the use of the site.

Item 5 – Amendments to the permitted marine farming rules

Rule 35.1 (Coastal Marine Zones 1 and 2) presently provides for the harvesting of marine farming produce as a permitted activity.

Section 17 of the Resource Management Amendment Act (No2) 2011 inserted a new section 68A into the RMA, as follows:

- (1) Despite section 68, after the commencement of section 17 of the Resource Management Amendment Act (no 2) 2011 no rule may be included in a regional coastal plan which authorises a permitted activity any aquaculture activity in the coastal marine area.

In order to ensure that the MSRMP met this legislative requirement the Council proposed to delete the Permitted Activity rule to harvesting of marine farm produce as follows:

~~*Harvesting of marine farming produce from marine farms previously authorised by a current Coastal Farm Permit (pursuant to the Resource Management Act 1991) or current marine Farm Lease or Licence (pursuant to the Marine Farming Act 1971) applied for prior to 1 August 1996, including the taking and discharge of coastal water and discharge of biodegradable and organic waste matter;*~~

The Section 42A report stated that the definition of 'Marine Farming' in the MSRMP includes harvesting activities and as such the activity is adequately addressed in other rules to Marine Farming activities. However in order to further add clarity and remove any doubt it was recommended a change is made to the definition as follows:

Marine Farming Marine farming means the activity of breeding, hatching, cultivating, rearing, or ongrowing of fish, aquatic life, or seaweed ~~for harvest~~ (and includes spat catching and spat holding) and the subsequent harvest of fish, aquatic life or seaweed when carried out on a marine farm; but does not include:

a) Any such activity where fish, aquatic life, or seaweed are not within the exclusive and continuous possession or control of the holder of a marine farming permit; or

In legal submissions on behalf of the Marine Farming Association (MFA), Mr Davies stated that the MFA accepts that Council is required to remove the permitted activity rule. However it was MFA's submission that the measures in the Section 42A report do not go far enough to protect the position of existing farmers. Mr Davies stated that "there is some uncertainty surrounding whether farmers who continue to operate pursuant to consents or extensions issued between 1991 and 1996, have consent to harvest from their farms".

The MFA argued that if Council removed the permitted activity rule it should be replaced with a consenting regime that is practical, cost effective and does not put the existing marine farmer's operations at risk.

Mr Davies on behalf of the MFA submitted that this could be achieved through a controlled activity status for harvesting. With controls limited to the term of the underlying consent. This would mean that consents for harvesting could be subject to conditions but could not be declined giving farmers surety. Limiting the Council's controls to the term of the underlying consent would recognise that any consents applied for are merely preserving the status quo.

The Committee initially considered harvesting to be within the definition. But out of an abundance of caution has decided to accept the MFA's relief requested.

As discussed Section 68A of the RMA requires that Regional Coastal Plans do not authorise aquaculture activities in the coastal marine area as permitted activity. The Committee has therefore decided to remove the harvesting of marine farm produce from the list of permitted activities. It has also decided to adopt the provision suggested by the MFA in order to make the harvesting of marine farming produce a controlled activity. This is being done in order to assist in providing surety to existing marine farming operations.

The decision of the Committee is that the harvesting of marine farming produce is deleted from the list of permitted activities in Rules 35.1 (Coastal Marine Zone 1 and 2)

~~Harvesting of marine farming marine produce from marine farms previously authorised by a current Coastal Farm Permit (pursuant to the Resource Management Act 1991) or current marine Farm Lease or Licence (pursuant to the Marine Farming Act 1971) applied for prior to 1 August 1996, including the taking and discharging of coastal water and discharge of biodegradable and organic waste matter;~~

That the definition of marine farming is amended as follows:

Marine Farming Marine farming means the activity of breeding, hatching, cultivating, rearing, or ongrowing of fish, aquatic life, or seaweed ~~for harvest~~ (and includes spat catching and spat holding) and the subsequent harvest of fish, aquatic life or seaweed when carried out on a marine farm; but does not include:

a) Any such activity where fish, aquatic life, or seaweed are not within the exclusive and continuous possession or control of the holder of a marine farming permit; or

35.2 Controlled Activities

Application must be made for resource consent for a Controlled Activity with respect to the following:

- Harvesting of marine farming produce from marine farms previously authorised by a current Coastal Permit (pursuant to the Resource Management Act 1991) or current Marine Farm Lease or Licence (pursuant to the Marine Farming Act 1971) applied for prior to 1 August 1996, including the taking and discharge of coastal water and discharge of biodegradable and organic waste matter.

35.2.8 Harvesting of Marine Farming Produce from Marine Farms Previously Authorised

35.2.8.1 *The Council reserves its control over and may impose conditions in respect of the following matters:*

- a) The duration of the consent, which should be consistent with the duration of the current Coastal Permit (pursuant to the Resource Management Act 1991) or current Marine Farm Lease or Licence (pursuant to the Marine Farming Act 1971) applied for prior to 1 August 1996 to which the consent application relates”.

Item Six - Definitions of wineries, distilleries and breweries in Rural Environments

Rule 36.4 of the MSRMP provides for ‘Wineries’ as a discretionary activity. However, ‘Wineries’ are not presently defined in the Plan and there is uncertainty as to their existing meaning given that they include a range of functions including production and retailing of product and associated dining.

The submissions received clearly indicated that there was a perception that the proposed definition did not cover the full gambit of activities associated with the making of wine. However there is a risk in that attempting to define every possible activity associated with a winery may result in some element being missed. It should be sufficient to capture the key elements of wine making. For example it should not be necessary to specify the activity of the delivery of grapes to the site or the subsequent transport of wine from the site. A winery will remain a discretionary activity in rural zones. A consent is therefore required and any environmental effects should be assessed through that consenting process.

The decision of the Committee is that:

The plan be amended by introducing the following definition to Chapter 25 of the Plan as follows:

Winery a facility for the processing of grapes or other fruit for the production of wine, or juice for the subsequent production of wine, and the blending, storage, bottling and packaging of wine.

Item 7 - Amendment to definition of “Home Occupation”

The purpose of having the “Home Occupation” rule is to allow for some limited commercial activity in residential zones without detracting from the amenity of the zones. The current definition has caused some confusion with regard to the use of an unoccupied home and or the employment of persons who are not part of the household residing on the site.

Mr Evans has submitted that the single person limit is restrictive and that the definition should allow up to five people as provided of in the ‘Home Stay’ definition. The Committee felt that a business under taking the level of activity that would require up to five employees who were not part of the household. Would potentially be out of keeping with the amenity and character of a residential neighbourhood. The Committee did however believe that greater clarification was required as to whether one or more than one household member can undertake a home occupation in the premises.

It is the view of the Committee that the Plan Change provides clarity to the definition of home occupation and will assist in meeting the Objectives and Policies of the MSRMP relating to the establishment of a variety of activities in residential zones.

The definition of ‘Home Occupation’ is amended as follows:

Home Occupation Means an occupation, business, trade, craft or profession, other than escort agencies, brothels and massage parlours, the primary purpose of which is to derive income and is:

(a) Performed only by a member or members of the household residing in the dwelling unit or accessory building which it is carried out; and

(b) Is incidental and secondary to the use of the dwelling unit for residential purposes.

The person or persons undertaking the home occupation is entitled to employ one additional person who does not normally reside in the dwelling unit or accessory building.

Excluded from this definition are any activities involving panel beating, spray painting, motor vehicle repairs, fibre-glassing, heavy trade vehicles, sheet metal work, wrecking of motor vehicles, bottle and scrap metal storage, rubbish collection service, wrought iron work, fish processing, motor body building and any process which involves continual use of power tools and drilling or hammering or any other occupation, business, trade, craft or profession which would detract from the amenities of the neighbourhood or locality.

Item Eight - Include drainage channels in the rules requiring discharge setbacks from water bodies

There are currently in place provisions in various zones in the MSRMP that require the discharge of contaminants be set back from water bodies. However the setback requirement does not include drainage channels. Drainage channels carry water, so the potential for contamination is the same as it is for rivers, lakes and wetlands.

Drainage channels are not defined in the MSRMP, this plan change proposes to add a definition consistent with the definition in the WARMP. And then add “or drainage channel” to the end of a number of provisions requiring a setback from surface water bodies for the discharge of contaminants onto or into land.

Mr Suleiman raised concerns on the practical effects of the setbacks. Examples he gave were the setback required from structures if roading water tables or storm water cut off drains were considered drainage channels. However, the Committee noted that the term “drainage channel” is clearly defined in the Plan.

The addition of the drainage channels to the set back rules will only affect the rules relating to the discharge of domestic waste water disposal, dairy effluent disposal, making of silage and composting of green waste and solid waste facilities. They will not impact on the application of agrichemicals, farm tracks or offal pits. The changes will provide benefits in terms of maintaining and enhancing water quality. And will therefore assist to achieve the water quality objective of the Plan.

The decision of the Committee is that:

The following definition be added to Chapter 25 Definitions

Drainage Channel means an artificial or other watercourse maintained or created for the purposes of removing drainage, storm water and ponded surface water.

“Or drainage channel” to be added at the end of the following conditions:

29.1.7.2.6

30.1.9.2.6

36.1.7.2.6

36.1.7.3 a)

36.1.7.7 b)

36.1.7.8.1 a)

37.1.5.2.6

38.1.1.2.6

39.1.3.2.6

Item Ten – Garden Maintenance

The intention of the Plan Change is to remove any doubt that normal garden maintenance activities are permitted provided appropriate protection is maintained for heritage or scheduled trees.

The submission from Clintondale Trust – Whyte Trustee Company Ltd interpreted the rule as not applying to the Rural Zones. Which is correct as vegetation clearance is generally a permitted activity in the Rural Zones subject to conditions.

To clarify the situation in regard to Rural Zones a further amendment has been made to enable garden maintenance in the Rural Zones provided conditions relating to significant indigenous vegetation are complied with.

The decision of the Committee is that:

The plan be amended by the introducing new Rule 26.7 to Chapter 26 – General Rules

26.7 Garden Maintenance

26.7.1 Permitted Activities

The maintenance or removal of trees and other vegetation is a permitted activity provided the following conditions are met:

Conditions:

- (a) The tree is not a heritage tree identified in Appendix A.*
- (b) This rule does not apply to Conservation Zone*
- (c) Where the activity occurs in the Rural Zones One and Two it complies with Rules 36.1.5.4.*

Appendix 1 – Schedule of Changes

Schedule of Changes

The changes to the Plan as a result of the decisions are shown by underlining and ~~strikethroughs~~.

Item One - Definition of “Family Flat”

Insert the following definition of “Family Flat” into Chapter 25 of the MSRMP:

Means a building of less than 80 square metres gross floor area used to accommodate up to two family members of a person residing in the principal residential unit on the property.

Item Two - Setbacks from water bodies for reasons other than avoiding flood hazard

Amend the following rules in each identified section shown below:

2.1 Urban Residential Zone (Chapter 29)

29.1.4 Hazards/Riparian Management

29.1.4.2 ~~Flood Protection—General~~

29.2.1 Minor Non-Compliance

Minor non-compliance with the conditions for Permitted Activities may be permitted to the extent specified below and will be considered by way of a Limited Discretionary Consent:

- *Buildings and structures within 8 metres of any ~~river or stop bank except for those river identified in the schedule in Appendix I and the Ecology Maps in Volume Three~~; up to 100% dispensation;*

2.2 Sounds Residential Zone (Chapter 30)

30.1.7 Hazards/Riparian Management

30.1.7.2 ~~Flood Protection~~

30.3.1 Minor Non Compliance

Minor non-compliance with the conditions for Permitted Activities may be permitted to the extent specified below and will be considered by way of a Limited Discretionary Consent:

- *Buildings and structures within 8 metres of any ~~river or stop bank except for those river identified in the schedule in Appendix I and the Ecology Maps in Volume Three~~; up to 100% dispensation;*

2.3 Town Commercial Zone (Chapter 31)

31.1.2.7 Hazards/Riparian Management

31.1.2.7.2 ~~Flood Protection~~

2.4 Urban Industrial Zone (Chapter 32)

32.1.6 Hazards/Riparian Management

32.1.6.2 ~~Flood Protection~~

32.3.1 Minor Non-Compliance

Minor non-compliance with the conditions for Permitted Activities may be permitted to the extent specified below and will be considered by way of a Limited Discretionary Consent:

- *Buildings and structures within 8 metres of any ~~river or~~ stop bank ~~except for those river identified in the schedule in Appendix I and the Ecology Maps in Volume Three;~~ up to 100% dispensation;*

2.5 Port Zone (Chapter 33)

33.1.9 Hazards/Riparian Management

33.1.9.2 Flood Protection

33.3.1 Minor Non-Compliance

Minor non-compliance with the conditions for Permitted Activities may be permitted to the extent specified below and will be considered by way of a Limited Discretionary Consent. An application for a resource consent may be considered without notification or the need to obtain the written approval of affected persons in accordance with section 94(1A) of the Act.

- ~~*The erection of buildings and structures within 8 metres of a river or stream bank up to 100% dispensation*~~

2.6 Marina Zone (Chapter 34)

34.1.8 Hazards/Riparian Management

34.1.8.2 Flood Protection

34.3.1 Minor Non-Compliance

Minor non-compliance with the conditions for Permitted Activities may be permitted to the extent specified below and will be considered by way of a Limited Discretionary Consent:

- *Buildings and structures within 8 metres of any ~~river or~~ stop bank ~~except for those rivers identified in the schedule in Appendix I and the Ecology Maps in Volume Three;~~ up to 100% dispensation;*

2.7 Coastal Marine Zones (Chapter 35)

35.1.1.5 Hazards/Riparian Management

35.1.1.5.2 Flood Protection

2.8 Rural Zones (Chapter 36)

36.1.3.3 Hazards/Riparian Management

36.1.3.3.2 Flood Protection

2.9 Rural Township Zone (Chapter 37)

37.1.2.7 Hazards/Riparian Management

37.1.2.7.2 Flood Protection

2.10 Conservation Zone (Chapter 38)

38.1.9 Hazards/Riparian Management

38.1.9.2 Flood Protection

Item Three – Clarify that utility provisions apply to “requiring authority”

Insert the following definition of “utility” into Chapter 25 of the Plan:

Utility “Means a network utility operation as that term is defined in section 166 of the Resource Management Act 1991”.

Item Four – Subdivision Chapter (Chapter 27)

4.1 Removal of References to Compliance with Assessment Matters

(i) Subdivision Rule 27.2 (Chapter 27)

Delete the reference to assessment criteria, and Rule 27.2.4 and Rule 27.2.5, in Rule 27.2 (Subdivision), as follows:

If subdivision proposals for these zones meet all of the following standards and assessment criteria (Rules 27.2.1, 27.2.2, 27.2.3, 27.2.4, 27.2.5) the Council will reserve control over the matters prescribed in Rule 27.2.5.

(ii) Subdivision Rule 27.3 (Chapter 27)

Delete the reference to assessment criteria, and Rule 27.2.4 and Rule 27.2.5, in Rule 27.3 (Subdivision), as follows:

With the exception of the Town Commercial Zone, subdivision in these zones must meet all of the general standards and assessment criteria specified in Rules 27.2.3.3, 27.2.4 and 27.2.5 whilst complying with the following standards for allotments and access to rear lots.

4.2 Clarification regarding building platforms

Insert the following not as Note 3 to the end of the existing notes to Tables 27.2.1 and 27.3.1 of Chapter 27 as follows:

³ The minimum building platform shape factor may be applied anywhere within the proposed allotment. Any building located within the building platform shape factor must comply with the bulk and location requirements of the respective zones and comply with the requirements of any easements.

4.3 Access Standards – Restricted Discretionary Activity

Amend Rule 27.3.2 as follows:

Zone	No. Lots served	Min Width (metres) see note 3 below	Min sealed width (metres)	Qualification
Sounds Residential (also applies to Town Commercial)	1 & 2	3	NA	NA
	4-4	5	5	NA
	3-6	5	NA	Width allows

				<u>passing</u>
Town Commercial	<u>1-4</u>	<u>5</u>	<u>5</u>	<u>NA</u>

4.4 Access Standards – Local Government Act

- i) Delete Note 3 from Rule 27.2.2 as follows:

~~³Where no frontage is available the Council must be able to issue a certificate under section 324 of the Local Government Act 1974, to confirm that legal access is available.~~

- ii) Delete Note 2 from Rule 27.3.1 as follows:

~~²Where no frontage is available the Council must be able to issue a certificate under section 324 of the Local Government Act 1974, to confirm that legal access is available.~~

- iii) Delete Note 3 from Rule 27.3.2 as follows:

~~³Where no frontage is available the Council must be able to issue a certificate under section 324 of the Local Government Act 1974, to confirm that legal access is available.~~

4.5 Cross-Lease/Unit Plan Subdivision Rule 27.2.3.2 (Chapter 27)

Amend Rule 27.2.3.2 as follows:

Existing Development

Cross-lease or Unit Plan subdivision which involve the legal separation of existing structures/units or building consent issued on complying sites (section 10 of the Act applies) at the date of the Plan becoming operative shall be Controlled Activities, subject to compliance with section 224(f) of the Act. All other Cross-Lease or Unit Plan subdivision shall be Discretionary Activities.

The re-subdivision of existing cross-lease or unit title plans to obtain individual freehold titles shall be a controlled activity, providing there is no physical change to the use of this site.

Item Five – Amendments to the permitted marine farming rules

- (i) Delete the following activity from the list of permitted activities in Rule 35.1 of Chapter 35 (Coastal Marine Zones 1 and 2)

~~*Harvesting of marine farming marine produce from marine farms previously authorised by a current Coastal Farm Permit (pursuant to the Resource Management Act 1991) or current marine Farm Lease or Licence (pursuant to the Marine Farming Act 1971) applied for prior to 1 August 1996, including the taking and discharging of coastal water and discharge of biodegradable and organic waste matter;*~~

- (ii) That the definition of marine farming is amended in Chapter 25 (Definitions) as follows:

Marine Farming *Marine farming means the activity of breeding, hatching, cultivating, rearing, or ongrowing of fish, aquatic life, or seaweed for harvest (and includes spat catching and spat holding) and the subsequent harvest of fish, aquatic life or seaweed when carried out on a marine farm; but does not include:*

a) Any such activity where fish, aquatic life, or seaweed are not within the exclusive and continuous possession or control of the holder of a marine farming permit; or

- (iii) **35.2 Controlled Activities**

Application must be made for resource consent for a Controlled Activity with respect to the following:

- Harvesting of marine farming produce from marine farms previously authorised by a current Coastal Permit (pursuant to the Resource Management Act 1991) or current Marine Farm Lease or Licence (pursuant to the Marine Farming Act 1971) applied for prior to 1 August 1996, including the taking and discharge of coastal water and discharge of biodegradable and organic waste matter.

(iv) 35.2.8 Harvesting of Marine Farming Produce from Marine Farms Previously Authorised

35.2.8.1 The Council reserves its control over and may impose conditions in respect of the following matters:

- a) The duration of the consent, which should be consistent with the duration of the current Coastal Permit (pursuant to the Resource Management Act 1991) or current Marine Farm Lease or Licence (pursuant to the Marine Farming Act 1971) applied for prior to 1 August 1996 to which the consent application relates”.

Item Six – Definitions of wineries, distilleries and breweries in Rural Environments

(i) Delete the following definition from Chapter 25 (Definitions)

~~Wineries — premises for the retail sale of wine, associated wine promotional material and associated dining facilities.~~

(ii) Add the following Definition to Chapter 25 (Definitions)

Winery a facility for the processing of grapes or other fruit for the production of wine, or juice for the subsequent production of wine, and the blending, storage, bottling and packaging of wine.

Item Seven – Amendment to definition of “Home Occupation”

Amend the definition of “Home Occupation” in Chapter 25 (Definitions) as follows:

Home Occupation Means an occupation, business, trade, craft or profession, other than escort agencies, brothels and massage parlours, the primary purpose of which is to derive income and is:

(a) Performed only by a member or members of the household residing in the dwelling unit or accessory building which it is carried out; and

(b) Is incidental and secondary to the use of the dwelling unit for residential purposes.

The person or persons undertaking the home occupation is entitled to employ one additional person that does not normally reside in the dwelling unit or accessory building.

Excluded from this definition are any activities involving panel beating, spray painting, motor vehicle repairs, fibre-glassing, heavy trade vehicles, sheet metal work, wrecking of motor vehicles, bottle and scrap metal storage, rubbish collection service, wrought iron work, fish processing, motor body building and any process which involves continual use of power tools and drilling or hammering or any other occupation, business, trade, craft or profession which would detract from the amenities of the neighbourhood or locality.

Item Eight – Include drainage channels in the rules requiring discharge setbacks from water bodies

(i) Add the following definition to Chapter 25 (Definitions):

Drainage Channel means an artificial or other watercourse maintained or created for the purposes of removing drainage, storm water and ponded surface water.

(ii) Amend the following Rules as shown:

8.1 Urban Residential Zone (Chapter 29)

Rule 29.1.7.2.6

There is no ponding of any domestic wastewater, or no run-off or infiltration of any contaminant beyond the property boundary or into any surface water body, groundwater or coastal water or drainage channel.

8.2 Sounds Residential Zone (Chapter 30)

Rule 30.19.2.6

There is no ponding of any domestic wastewater, or no run-off or infiltration of any contaminant beyond the property boundary or into any surface water body, groundwater or coastal water or drainage channel.

8.3 Rural Zones (Chapter 36)

Rule 36.1.7.2.6

There is no ponding of any domestic wastewater, or no run-off or infiltration of any contaminant beyond the property boundary or into any surface water body, groundwater or coastal water or drainage channel.

Rule 36.1.7.3 a)

The discharge shall not be within 20 metres of a surface water body or over any unconfined aquifer or drainage channel.

Rule 36.1.7.7 b)

The waste disposal area is to be sited so that no discharge can enter water at any time or under any circumstances, and shall be a minimum of;

- *50 metres from any surface water body, water supply bore, or coastal marine area or drainage channel; and*
- *1 metre above the level of the ground water table at all times;*

Rule 36.17.8.1 a)

- a) *The discharge shall occur no less than 50 metres from any surface water, groundwater bore or coastal water or drainage channel; and*

8.4 Rural Township Zone (Chapter 37)

Rule 37.1.5.2.6

There is no ponding of any domestic wastewater, or no run-off or infiltration of any contaminant beyond the property boundary or into any surface water body, groundwater or coastal water or drainage channel.

8.5 Conservation Zone (Chapter 38)

Rule 38.1.1.2.6

There is no ponding of any domestic wastewater, or no run-off or infiltration or infiltration of any contaminant beyond the property boundary or into any surface water body, groundwater or coastal water or drainage channel.

8.6 District Recreation Zone (Chapter 39)

Rule 39.1.3.2.6

There is no ponding of any domestic wastewater, or no run-off or infiltration of any contaminant beyond the property boundary or into surface water body, groundwater or coastal water or drainage channel.

Item Nine – Remove references to a “Hazards Register” as none exists

Delete the reference to “or listed in the Hazards Register” from the following discretionary activity rules:

9.1 Urban Residential Zone (Chapter 29)

Amend Rule 29.3 (second bullet point) as follows:

Any activity listed as a Permitted Activity and either adversely affecting or being affected by any hazard area identified on the Planning Maps as a hazardous area ~~or listed in the Hazards Register~~, with the exception of community and recreational activities carried out on existing school sites.

9.2 Sounds Residential Zone (Chapter 30)

Amend Rule 30.4 (second bullet point) as follows:

Any activity as a Permitted Activity and either adversely affecting or being affected by any hazard area identified on the Planning Maps as a hazardous area ~~or listed in the Hazards Register~~, with the exception of community and recreational activities carried out on existing school sites.

9.3 Town Commercial Zone

Amend Rule 31.4

Any activity listed as permitted activities and either adversely affecting or being affected by any hazard area identified on the Planning Maps as a hazardous area ~~or listed in the Hazards Register~~; and

9.4 Urban Industrial Zone

Amend Rule 32.4 (second bullet point) as follows:

Any activity listed as permitted activities and either adversely affecting or being affected by any hazard area identified on the Planning Maps as a hazardous area ~~or listed in the Hazards Register~~

9.5 Port Zone

Amend Rule 33.4 (first bullet point) as follows:

Any activity listed as permitted activities and either adversely affecting or being affected by any hazard area identified on the Planning Maps as a hazardous area ~~or listed in the Hazards Register~~

9.6 Marina Zone

Amend Rule 34.4 (second bullet point) as follows:

Any activity listed as a Permitted Activity and either adversely affecting or being affected by any hazard area identified on the Planning Maps as a hazardous area ~~and/or listed in the Hazard Register~~;

9.7 Coastal Marine Zones

Amend Rule 35.4 (first bullet point) as follows:

Any activity listed as a Permitted Activity and either adversely affecting or being affected by any hazard area identified on the Planning Maps as a hazardous area ~~and/or listed in the Hazards Register~~;

9.8 Rural Zones

Amend Rule 37.3 (third bullet point) as follows:

Any Activity listed as a Permitted Activity and either adversely affecting or being affected by any hazard area identified on the Planning Maps as a hazardous area ~~and/or listed in the Hazards Register~~;

Item Ten – Garden Maintenance

Insert a new rule as follows

26.6 Garden maintenance

26.6.1 Permitted Activities

The maintenance or removal of trees and other vegetation is a permitted activity provided the following conditions are met:

Conditions

- (a) The tree is not a heritage tree identified in Appendix A.*
- (b) This rule does not apply to the Conservation Zone*
- (c) Where the activity occurs in the Rural 1 and 2 Zones it complies with Rule 36.1.5.4.*