

File Reference: M135-15-26

Marlborough Sounds Resource Management Plan

Proposed Plan Change No. 26: Minor Amendments

Report prepared to fulfil the requirements of Section 42A of the Resource Management Act 1991



1 Introduction

My name is Paul Whyte and I hold the qualification of Bachelor of Town Planning from Auckland University. I am a full member of the New Zealand Planning Institute. I have practiced in the field of resource management and planning since 1984 primarily working for both local government and planning consultants in Dunedin and Christchurch. Currently I am Senior Planner (Associate) in the Christchurch office of Beca Carter Hollings and Ferner (Beca)

This report has been commissioned by Marlborough District Council (MDC) in accordance with Section 42A of the Resource Management Act 1991 (RMA). The report relates to Proposed Plan Change 26 to the Marlborough Sounds Resource Management Plan (MSRMP). This Plan Change is a Council initiated Plan Change.

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. Twenty five further submissions were received within this period. A list of submitters and further submitters and my recommendations on the submissions are attached in Appendix 1.

Proposed Plan Change 26 (PC26) is a Council initiated change to the MSRMP made under Part 2 of the First Schedule of the RMA.

The Purpose of plan Change 26 was to introduce a number of minor additions and alterations to the provisions of the Marlborough Sounds Resource Management Plan in order to remove redundant provisions and provide greater clarity to a number of existing provisions to improve the interpretation and implementation of the Plan.

2 Structure of this report

Plan Change 26 introduced changes to the Plan covering the following general items:

1. Definition of "Family Flat"
2. Setback 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. Wineries
7. 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.

Each of these items and the proposed changes to the Plan they introduce is considered separately in this report. This report summarises each proposed change and should be read in conjunction with the section 32 report, which contains full details of the background to the Plan Changes.

Plan Change 26 was prepared in tandem with Plan Change 61 to the Wairau – Awatere Resource Management Plan, as both Plans contain a number of identical provisions. A number of submissions were received seeking the same relief in relation to the provisions in both Plan and generally similar assessments and recommendations are made on submissions that are common to both plans.

Submitters are referred to in this report by Submitter number and submission point. For example, the notation **Royal Forest and Bird Protection Society (15/27)** identifies the submission number (15) and the submission point (27) referred to in that section of the report.

The proposed changes are shown by underlining and ~~strikethroughs~~ and the recommended amendments as a result of the submissions are shown as underlining and strikethroughs.

This report follows the same order as the issues are identified in the section 32 report.

The following attachments form part of this report:

- Appendix 1:** Contains a list of submissions and further submissions received and recommendations on submissions and further submissions.
- Appendix 2:** Sets out in full all changes proposed to the Plan arising from the proposed Plan Change and recommendations on the submissions.

3 Item 1 - Definition of “Family Flat”.

Issue

The existing definition of a ‘Residential Unit’ in the Plan, as set out below, includes a reference to a family flat:

means a residential activity which consists of a single self-contained housekeeping unit, whether of one or more persons, and includes a holiday home, accessory buildings and a family flat. Where more than one kitchen facility is provided on the site, other than a kitchen facility for a family flat there shall be deemed to be more than one residential unit. For the purposes of this definition a residential unit shall include any emergency unit or refuge.

However, ‘Family Flat’ is presently not defined in the Plan and the lack of an appropriate definition has created an issue regarding the appropriate scale of buildings constructed as family flats. For example, occasions have arisen where a second substantial residential dwelling has been constructed under the auspices of being a ‘Family Flat’ on the same site, as well as applications made to subdivide the family flat from the parent title.

The Council considers 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 a dependant relative of someone occupying the principal residential unit on the property. This emphasises that a family flat is an ancillary use to the principal residential activity on the site.

Proposed Changes

In order to address this issue, Plan Change 26 proposed to insert the following definition of ‘Family Flat’ into the Plan:

Means a building of less than 70m² gross floor area used to accommodate a family member of a person residing in the principal residential unit on the property.

Submissions

Five submissions were received in relation to this amendment. The submission of K Suleiman (4/18) opposes the amendment but offered no reasons in support of this position. R Evans (12/10) considers that the size limit was arbitrary and should be deleted.

F Patchett (10/24) and K & L Morgan (9/23) support the inclusion of the definition, and considered that tighter controls are necessary to ensure that family flats do not proliferate. The specific amendments sought are set out below:

- (i) *Include the term ‘immediate’ before family, or define family*
- (ii) *Require the flat to be located adjacent and/or proximate to the principal residence*
- (iii) *Require the building to be secondary and ancillary in size and scale to the principal dwelling*
- (iv) *Prescribe a time restriction on the use of family flats as a permitted activity*
- (v) *Require payment of a bond to secure removal of a family flat at the end of the term of the permitted use*
- (vi) *Any other changes necessary to clarify that family flats are a limited and restricted exception to the existing dwelling density provisions.*

The submission of the NZ Institute of Surveyors (3/4) sought that the definition be amended as follows:

Means a building of less than 80m² gross floor area used primarily to accommodate a family member or dependent person residing in the principal residential unit on the property.

The construction of a family flat does not provide a basis for the provision of a separate title by way of subdivision for that dwelling.

Assessment

In my view that the absence of a definition of a Family Flat gives considerable scope for inconsistencies in the interpretation of the Plan and its administration. The net result could undermine the basic tenet of one dwelling per site and a reduction in amenity as it relates to density and open space. For example Section 10.2.3 of the MSRMP clearly sets out this philosophy. Accordingly in my view an amendment is appropriate which clarifies that a Family Flat is appropriate but only in particular circumstances where it remains ancillary to the primary dwelling on a site.

In terms of the submissions I agree that the occupancy restriction could be better defined and it appears the term "dependant relative" is more in keeping with the concept.

The proposed limitation on area appears straightforward and a reasonable approach to this issue. While any area is likely to be somewhat arbitrary the suggested floor area appears appropriate for one person.

Council may wish to consider the suggested amendments by the submitters but at this stage they are not considered appropriate as they are more uncertain and provide for a scale of dwelling that undermines the expected neighbourhood amenity. The resource consent process is available for variations to the above parameters.

Recommendation

1. That the submissions of F Patchett (10/24) and K & L Morgan (9/23) **be accepted in part**, and the submissions of NZ Institute of Surveyors (3/4), R Evans (12/10) and K Suleiman (4/18) be **rejected**.

2. That the following definition of 'Family Flat' be inserted into Chapter 25 of the Plan as follows:

*Means a building of less than 70m² gross floor area used to accommodate a ~~family member dependent~~ **relative** of a person residing in the principal residential unit on the property*

4 Item 2 – Setback from water bodies for reasons other than avoiding flood hazard

Issue

The current Plan provisions require that buildings be set back a minimum of 8 metres from lakes, rivers and wetlands. The existing rule headings, however, appear to limit this setback for the purpose of avoiding natural hazards only, whereas the Council 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 waterbody. This change allows the Council to consider the actual and potential adverse effects of such a structure on matters such as natural character and amenity values.

Proposed Changes

In order to provide the above clarification, the Plan Change proposes changes as set out below to a number of Plan sections.

- (i) Replace the heading “Hazards” with “Hazards/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.
- (iv) Delete the final bullet point of the list of limited discretionary activities from Rule 33.3.1.

As an example, the changes are shown below:

29.1.4	<u>Hazards/Riparian Management</u>
29.1.4.1	<i>Except for internal alterations within an existing structure, building activity is not a Permitted Activity within the coverage of the Natural Hazards overlay identified on the Planning Maps.</i>
29.1.4.2	Flood Protection – General <i>All proposed buildings and structures shall be set back a minimum of at least 8.0 metres from the margin of any river, lake or wetland or where there is a stopbank at least 8.0 metres from the landward toe of that stopbank.</i>
29.2.1	<i>Minor Non-Compliance</i> <i>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:</i> <ul style="list-style-type: none">• <i>Buildings and structures within 8 metres of any river or stopbank except for those rivers identified in the schedule in Appendix I and the Ecology Maps in Volume Three; up to 100% dispensation;</i>

Submissions

The Royal Forest and Bird Protection Society (15/27) supports this amendment. R Evans (12/11) opposes the change on the grounds that it will significantly restrict the development choices for owners, and requests that riparian management should be excluded from all but large rivers and streams.

Assessment

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 waterbody, I consider the proposed amendment is consistent with the provisions contained in Chapters 5 (Landscape), 10 (Urban Environment), 11 (Rural Environments) and 23 (Subdivision and Development) of the Plan.

The proposed amendment does not prohibit development within these limits but allows Council to take a wider range of matters into account. In respect of the submission of R. Evans, resource consent is currently required for buildings within 8m of all rivers with Council retaining discretion to reduce this distance only in respect of some rivers. The Plan Change removes this discretion which I consider appropriate given the thrust of the Plan Change. However an additional resource consent is not required.

Recommendation

- 1 That the submission of R Evans (12/11) **be rejected** and the submission of Royal Forest and Bird Protection Society (80/117) **be accepted** and the Plan be amended as follows:
- 2 That the Plan be amended as follows:
 - i) Replace the heading "Hazards" with "Hazards/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.

5 Item 3 – Clarify that Utility Provisions apply to “requiring authority”

Issue

Utilities are presently provided for in Section 26.5 of the Plan. The Council identified that as presently worded, the rules can be interpreted in such a manner that the installation of a utility may be undertaken by any person. For example, it would be possible for a 25 metre high radio aerial to be erected in a residential zone by any person. Compounding this problem, Rule 27.1.1 provides for the subdivision of a utility onto its own lot as a permitted activity which allows a utility erected by a private individual or business to be subdivided onto a separate site.

Accordingly the amendment suggests that utilities be restricted to a network utility operation undertaken by a requiring authority in order to avoid potential adverse effects arising from a proliferation of utilities throughout various zones and that could subsequently be subdivided into separate titles.

Proposed Changes

Plan Change 26 introduced the following amendments relating to Utilities.

- (i) Insert the following definition of “Utility” into Chapter 25 of the Plan:

Means a network utility operation undertaken by a requiring authority as those terms are defined in section 166 of the Resource Management Act 1991.

Submissions

The Marlborough Amateur Radio Club (6/8) and the NZ Association of Radio Transmitters (11/25) oppose this proposed amendment. The submission made by the NZ Association of Radio Transmitters was supported by 26 further submissions.

The Marlborough Amateur Radio Club submission seeks that the Amateur Radio Service be included in the utility provisions along with the requiring authorities.

The submission of the NZ Association of Radio Transmitters considers the proposed change fails to recognise the needs of the amateur radio service in respect of antennas, aerials and the supporting structures. The submission identifies the range of activities that the amateur radio service engages in and requests that the Plan include rules that are developed in consultation with the amateur radio service to provide rules that are more accommodating for the amateur radio service, including rules to:

- Provide permitted use supporting structures to at least 20 metres in the Residential zones, and to at least 25 metres in the Rural zone;
- Allow surmounted whip and discone antennas above the mast heights
- Allow minimal setback on internal site boundaries, and no greater than 3 metres on road boundaries
- Allow penetrations of the daylight control recession planes

Assessment

Chapter 20.0 (Utilities) of the Plan identifies that utilities form an essential part of community infrastructure and that most communities are unsustainable without the provision of water supply, drainage, sewage disposal, energy and communications. There is considerable reference to “utility operators” and “utility networks” in the Plan. Traditionally planning law in New Zealand has also recognised the role of utilities and their operators. To this end the Plan provides for utilities as permitted activities subject to compliance with relevant conditions. No distinction is made between private or public operators, notwithstanding the community emphasis in Chapter 20.0 of the Plan. As indicated above, the Council is concerned that private individuals or enterprises could utilise these provisions in sensitive areas without necessarily providing a community benefit.

Accordingly the amendment suggests that utilities be restricted to a network utility operation undertaken by a requiring authority in order to avoid potential adverse effects arising from a proliferation of utilities throughout various zones that could subsequently be subdivided into separate titles.

Section 166 of the RMA states a network utility operation has a corresponding meaning as a network utility operator which is as follows:

- (a) *undertakes or proposes to undertake the distribution or transmission by pipeline of natural or manufactured gas, petroleum, biofuel, or geothermal energy; or*
- (b) *operates or proposes to operate a network for the purpose of—*
 - (i) *telecommunication as defined in section 5 of the Telecommunications Act 2001; or*
 - (ii) *radiocommunication as defined in section 2(1) of the Radiocommunications Act 1989; or*
- (c) *is an electricity operator or electricity distributor as defined in section 2 of the Electricity Act 1992 for the purpose of line function services as defined in that section; or*
- (d) *undertakes or proposes to undertake the distribution of water for supply (including irrigation); or*
- (e) *Undertakes or proposes to undertake a drainage or sewerage system; or*
- (f) *constructs, operates, or proposes to construct or operate, a road or railway line; or*
- (g) *is an airport authority as defined by the Airport Authorities Act 1966 for the purposes of operating an airport as defined by that Act; or*
- (h) *is a provider of any approach control service within the meaning of the Civil Aviation Act 1990; or*
- (i) *undertakes or proposes to undertake a project or work prescribed as a network utility operation for the purposes of this definition by regulations made under this Act,—*

A requiring authority means—

- (a) *a Minister of the Crown; or*
- (b) *a local authority; or*
- (c) *a network utility operator approved as a requiring authority under section 167*

The submissions emphasise the positive benefits of amateur radio for the community and suggest a number of ways they can be accommodated with various suggestions in respect of the rules. Clearly from the submissions it is apparent that the issue has been debated in other districts in New Zealand. Notwithstanding the positive benefits, the Environment Court has stated that radio masts and antennae could have “not insignificant adverse effects on the city and suburban environment by way of interference with views and general amenity.”¹

Currently it appears that radio amateur facilities come within the definition of a utility as a “telecommunication and radiocommunication device”. Such facilities are subject to the following controls:

- 26.5.1.2.4 Maximum height of 25m whether affixed to the land, a building or an existing mast, tower or pole

In addition facilities are also potentially subject to Rule 26.5.1.2.7 which requires buildings over 2.5m in height to be set back from the road and internal boundary by a distance of not less than half their height. “Building” is not defined in the MSRMP, however the definition of building is assumed as per the definition set out in Sections 8 and 9 of the Building Act 2004.

¹ Para 4 NZ Association of Radio Transmitters et al v Wellington City Council (Decision 2013 NZ EnvC 38)

The submissions put forward to provide for “amateur radio” by the inclusion of detailed rules is considered to be outside the scope of the Plan Change given that the change relates to utilities and requiring authorities. This issue could be considered more appropriately as part of the plan review.

In respect of Plan Change 61 to the WARMP it is noted that the definition is recommended to be as follows:

Means a network utility operation ~~undertaken by a requiring authority as that use terms are~~ is defined in section 166 of the Resource Management Act 1991.

In terms of consistency between the WARMP and the MSRMP it is desirable the definitions of the plans are the same. Given this it is proposed to amend the definition in the MSRMP to the one above. Potentially “amateur radio” operators may be able to meet the definition of a network utility operator and as such assists to give effect to the respective submissions.

Recommendation

1. That the submissions of Marlborough Amateur Radio Club (6/8) and NZ Association of Radio Transmitters (64/97) be **accepted in part**.

2. That the Plan be amended as follows:

Insert the following definition of Utility into Chapter 25 of the Plan:

Means a network utility operation ~~undertaken by a requiring authority as that use terms are~~ is defined in section 166 of the Resource Management Act 1991.

6 Item 4 – Subdivision Chapter (Chapter 27)

6.1 Item 4.1 Removal of references to compliance with Assessment Matters

Issue

The existing Rules relating to controlled and discretionary subdivision activities (Rules 27.2.4 and 27.2.5) 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.

Proposed Changes

Plan Change 26 proposes the following changes to the rules relating to controlled and discretionary subdivision activities, as follows;

(i) **Controlled Subdivision Activity**

Amend Rule 27.2 (Controlled Activities) 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 27.5.

(i) **Discretionary Subdivision Activity**

Amend 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.

Two submissions were received from Marlborough District Council (8/20) and NZ institute of Surveyors both of which identify that the incorrect rule was referenced in Rule 27.2 (Controlled Activities) and should be Rule 27.2.5. No change is required to Rule 27.3 (Discretionary Subdivision Activity).

Recommendation:

1. That the submissions of Marlborough District Council (8/20) and NZ institute of Surveyors (3/6) be **accepted.**
2. That the Plan be amended as follows:

Rule 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

6.2 Item 4.2 Clarification regarding building platforms

Issue

The Plan subdivision standards require that a building platform shape factor of certain dimensions (that vary according to zone) is available on any allotment to be created. This is to ensure that there is a useable area on each allotment to erect a subsequent dwelling. Council considers this building platform shape factor should be clear of any easements and setback requirements so that the entire building platform is available to be built on.

Council has received applications for dwellings which while located within a building platform shape factor encroach into setbacks and easements. The Council has remedied this issue on a case by case basis by requiring resource consents to allow either a reduced setback, or to relocate easements.

Proposed Changes

In order to avoid this issue arising in the future Plan Change 26 introduced the following change to the Plan to ensure that a building platform does not intrude into yard setbacks and is not located over existing easements:

Insert the following note to the end of the existing notes to Tables 27.2.1 and 27.3.1 as note 3:

³ *The minimum building platform shape factor may be applied anywhere within the proposed allotment. The minimum building platform must be free of any easement or any building setback and depth requirements required by zone rules.*

Submissions

The NZ Institute of Surveyors (3/5) consider that the proposed change is unworkable as building setbacks are not fixed but relate to recession planes. The submitter requests that the note be reworded as follows:

The minimum building shape factor may be applied anywhere within the proposed alignment. NB The minimum building platform is inclusive of any easement located along a property boundary, or any building setback and depth requirement required by zone rules.

Richard Evans (12/12) considers that the proposed amendment restricts subdivision and infill and reduces the choices for development, and submits that yard setbacks should be excluded from the note.

The Marlborough District Council (8/21) identifies a discrepancy between the wording of the proposed change in the section 32 report and the schedule of changes. The submission identifies that the correct wording is that in Item 4.2 of the section 32 report.

Assessment

It is agreed with the NZIS that the amendment will 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 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. I consider that the proposed amendment would also tend to undermine the basis of the existing minimum frontage requirements as they will be inconsistent.

It appears that persons assume that following identification of a building platform, a dwelling can be built close to a boundary when in reality setbacks from boundaries are required. The subdivision rules do not refer to the location of buildings and it appears purchasers of lots are receiving incorrect advice that a dwelling can be located anywhere within a building platform shape factor.

Given the above, it appears the Plan Change may not be appropriate in achieving the outcomes sought. However to assist in addressing the issue, it is suggested an addition is made to the existing note that draws attention to the need to comply with setbacks and easements. As such the submissions can be accepted in part.

Recommendation

- 1 That the submissions of the Marlborough District Council (8/21), NZ Institute of Surveyors (3/5) and R Evans (12/12) be **accepted in part**.
- 2 That the Plan be amended by adding the following note 3 to Table 27.2.1 and 27.3.1 as follows:
 - 3 The minimum building platform shape factor may be applied anywhere within the proposed allotment. The minimum building platform must be free of any easement or any relevant yard setback required by zone rules. 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.

6.3 Item 4.3 – Access Standards – Restricted Discretionary Activity

Issue

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. In order to remove the confusion it is appropriate to separate the standards and add in a provision for 3-6 lots.

Proposed Changes

Plan Change 26 proposed 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>4-4</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>

Submissions

R Evans (12/13) considers that the standards are not representative of real life development and will restrict development and sought to reduce the requirements to realistic widths consistent with New Zealand Standards. The submission of K Suleiman (4/17) opposes the amendment but provided no reasons.

Assessment

I consider the proposed amendments are appropriate as they remove confusion and make the Plan more readable. In my view the standards for the 3-6 lots in the Sounds Residential Zone (which are the only new provisions) are realistic given the need to allow for passing. I also believe the standards are consistent with MDC Plan standards and also with relevant New Zealand Standards.

<u>Recommendation</u>				
1	That the submissions of R Evans (12/13) and K Suleiman (4/17) be rejected .			
2	That Rule 27.3.2 be amended 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>	1 & 2	3	NA	NA
	1-4	5	5	NA
	<u>3-6</u>	<u>5</u>	<u>NA</u>	<u>Width allows passing.</u>
<i>Town Commercial</i>	1-4	5	5	NA

6.4 Item 4.4 – Access Standards – Local Government Act

Issue

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.

Proposed Changes

In order to address this issue, the following changes were proposed in Plan Change 26:

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

~~³ Where no frontage is available the Council must be able to issues a certificate under section 321 of the Local Government Act 1974, to confirm that legal physical access is available.~~

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

~~² Where no frontage is available the Council must be able to issues a certificate under section 321 of the Local Government Act 1974, to confirm that legal physical access is available.~~

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

~~³ Where no frontage is available the Council must be able to issues a certificate under section 321 of the Local Government Act 1974, to confirm that legal physical access is available.~~

Submissions

No submissions were received on these proposed changes.

Assessment

The proposed changes are appropriate as they remove references to repealed legislation.

Recommendation:

That the Plan be amended as follows:

1. Delete Note 3 from Rule 27.2.2 as follows:

~~³ Where no frontage is available the Council must be able to issues a certificate under section 321 of the Local Government Act 1974, to confirm that legal physical access is available.~~

2. Delete Note 2 from Rule 27.3.1 as follows:

~~² Where no frontage is available the Council must be able to issues a certificate under section 321 of the Local Government Act 1974, to confirm that legal physical access is available.~~

3. Delete Note 3 from Rule 27.3.2 as follows:

~~³ Where no frontage is available the Council must be able to issues a certificate under section 321 of the Local Government Act 1974, to confirm that legal physical access is available.~~

6.5 Item 4.5 – Cross Lease or Unit Plan Subdivisions

Issue

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 also not included in the MSRMP.

Proposed Change

In order to address this issue, Plan Change 26 proposes to add the following sentence under Rule 27.2.3.2:

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.

Submissions:

No submissions were received n the proposed change.

Assessment

Given the absence of submissions it is considered appropriate to accept the proposed change as it will assist in the better administration of the MSRMP and bring it into alignment with the Wairau/Awatere Resource Management Plan.

Recommendation

1. That the MSRMP be amended by adding the following sentence under Rule 27.2.3.2:

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.

7 Item 5 – Amendments to the permitted marine farming rules

Issue

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 (No 2) 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 as a permitted activity any aquaculture activity in the coastal marine area.*

Proposed Changes

In order to ensure that the MSRMP is consistent with current legislation, the Council considers it appropriate and necessary to delete the Permitted Activity rule relating to harvesting of marine farm produce as follows:

~~*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 License (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;*~~

It considers that the existing definition of 'Marine Farming' in the MSRMP includes harvesting activities and as such the activity is adequately addressed in other rules relating to Marine Farming Activities.

Submissions

Four submissions were received in relation to this amendment. B Gibson (20/31), Marine Farming Association Incorporated (7/9), McLaren Family Trust (13/16) and New Zealand King Salmon Co. Limited (1/2) oppose the proposed change with concerns that insufficient consideration has been given to existing farming operations. The submissions consider that it is unclear what, if any, additional consents marine farmers will require to continue harvesting at their farms.

Both the Marine Farming Association Incorporated and New Zealand King Salmon Co. Limited seek that the proposed amendment is removed until further consultation has been undertaken with the marine farming industry about the appropriate way to deal with the issue. All three submitters request that if the proposed amendment is not removed from the plan change, that the Council introduce a new rule into the MSRMP which makes the harvesting of marine farms a controlled activity.

The Marine Farming Association Incorporated does not agree that the existing definition includes the activity of 'harvesting' and that the definition should be amended to provide greater clarity.

The submission summary cited B Gibson (20/31) as opposing the amendment with no specific relief requested.

Assessment

I note that the Guidance Overview for the Aquaculture Legislative Reforms (2011) prepared by the Ministry of Primary Industries explains that Regional coastal plans will no longer be able to authorise aquaculture activities in the coastal marine area as "permitted activities" to ensure that a resource consent application is made and triggers the decision-making process that tests for undue adverse effects on commercial, customary or recreational fishers (UAE test). This is implemented by Section 68A of the RMA referred to above.

Accordingly Council's proposal to delete the permitted rule relating to the "harvesting of marine farming produce" appears consistent with this direction. The submitters oppose this for various reasons including the effect on existing operations and uncertainty about the definition of "marine farming" in respect of harvesting.

In terms of existing operations it is assumed the harvesting from marine farms is authorised by existing consents and not dependent on Rule 35.1.

The definition of marine farming in the MSRMP is as follows:

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) 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

b) Any such activity where the fish, aquatic life, or seaweed being farmed cannot be distinguished, or be kept separate, from naturally occurring fish, aquatic life, or seaweed.

In my view this definition does include the activity of harvesting as it is specifically referred to. However to remove any doubt it is recommended a change is made to the definition as referred to below.

It also appears Rule 35.1 can be successfully severed given the marine farming definition and rules such as Rules 35.2, 35.2.5, 35.3.1, 35.4, 35.4.2.9 or 35.5 which provide for marine farming (including harvesting) as a controlled, discretionary or non-complying activity.

While there is not an immediate requirement to delete the activity given Section 68A of the RMA, the proposed change will make the MSRMP less confusing and more readable. Subject to further evidence from the submitters it is recommended the plan change proceed.

Recommendation

1 That the submissions of B Gibson (20/31), McLaren Family Trust (13/16), Marine Farming Association Incorporated (7/9) and New Zealand King Salmon Co. Limited (1/2) be **accepted in part**.

2 That the change proposed in Plan be upheld and the following activity is deleted from the list of permitted activities in Rule 35.1 (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 License (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;*~~

3. That the definition of marine farming is amended as follows:

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

b) Any such activity where the fish, aquatic life, or seaweed being farmed cannot be distinguished, or be kept separate, from naturally occurring fish, aquatic life, or seaweed.

7 Item 6 – Wineries

Issue

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

Proposed Changes

Plan Change 26 proposes to include a definition of 'Winery' which reflects the functions these activities involve to provide certainty in the administration of the Plan. The proposed definition introduced by the Plan Change is:

Winery – a facility for the processing of grapes or other fruit for the production of wine, or juice from the subsequent production of wine, premises for the retail sale of wine, associated wine promotional material and associated dining facilities.

Submissions

The Clintondale Trust – Whyte Trustee Company Ltd (2/29) opposes the proposed definition as it does not provide the clarity and consistency predicated in the section 32 report, and proposes alternative wording as follows:

Winery – a facility for the processing of grapes or other fruit, or their juices, for the production of wine.

The Guernsey Road Residents Association (14/26) oppose the definition and considers that there should be no amendment without consideration of the effects of industrial activities in the Rural Zone, as industrial activities should properly be provided for in the industry zone. In that respect, any amendments should have regard to the effects of industrial activities that are incompatible with the Rural Zone and the rural environment. The submitter considers that the matter should be delayed until the comprehensive review of the District Plan, and considers that the proposed wording does not make sense. The submitter requests that the proposed change be rejected, or alternatively:

- Provide a new definition limiting the size and scale of facilities to ensure that conflict between industrial activities and rural activities is minimised.
- Exclude bottling and consequential activities for the definition of processing
- Exclude the processing of juice previously crushed or processed off site from the definition.

Marlborough District Council (8/22) submits that a reference to premises for the retail sale of wine, associated wine promotional material and associated dining facilities are not required in the definition as these are covered in the Definition of Commercial Activity. The submitter requests that the definition be amended 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.

Assessment

Marlborough District Council (25/33) identifies that there is no need to include the sale of wine, dining activities and other commercial functions within the definition as these are adequately provided for by the definition of 'Commercial Activity' in the MSRMP. Both wineries and commercial activities are provided for as discretionary activities in the Rural Zone and to avoid confusion and overlap I agree that the above activities can be deleted from the definition.

It is clear from the submission of the Clintondale Trust – Whyte Trustee Company Ltd that the definition is perceived to not cover the full range of activities associated with the making of wine. In my view a reasonable and

practical approach should be taken so that an elongated definition does not result. The risk in defining every possible activity associated with a winery is that some element may be missed. The refinements proposed in the submissions of Marlborough District Council and the Clintondale Trust – Whyte Trustee Company Ltd are considered sufficient to capture the key elements of wine making.

In respect of the submission of the Guernsey Road Residents Association the limit and exclusions sought are not considered necessary given that the activity requires resource consent as a discretionary activity which enables a full assessment to be made including the issues referred to by the submitter. In my view, given the importance of the wine industry in Marlborough and that the establishment of a winery in the Rural Zone is logical, any definition should not be overly restrictive, particularly when it is a discretionary activity.

Recommendation

1. That the submission of Marlborough District Council (8/22) be **accepted**; the submission of Clintondale Trust – Whyte Trustee Company Ltd (2/29) be **accepted in part**; and the submission of Guernsey Road Residents Association (14/26) be **rejected**.

2. That the Plan be amended by introducing the following definition in Chapter 25:

WINERY - a facility for the processing of grapes or other fruit for the production of wine, or juice ~~for from the subsequent production of wine, and the blending and storage of wine. premises for the retail sale of wine, associated wine promotional material and associated dining facilities.~~

8 Item 7 – Amendments to definition of “Home Occupation”.

Issue

Home occupations can currently occur as a permitted activity in residential zones. The existing definition of a “Home Occupation” is as follows:

means an occupation, business, trade, craft or profession the primary purpose of which is to derive income and is:

- a) *Performed by a member of the household residing in the dwelling unit or accessory building in which it is carried on; and*
- b) *Is incidental and secondary to the use of the dwelling unit for residential purposes.*

Excluded from this definition are any activities involving panel beating, spraypainting, motor vehicle repairs, fibreglassing, heavy trade vehicles, sheet metal work, wrecking of motor vehicles, bottle and scrap metal storage, rubbish collection service, wrought iron work, motor body building, fish processing, and any other 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.

The Council has identified that there is uncertainty in the administration of the permitted “Home Occupation” rule. Specifically, confusion has arisen over whether a dwelling may be utilised for a Home Occupation when there are no occupants in the dwelling. The definition is also presently silent on whether or not it is appropriate for there to be an employee or employees who are not part of the household residing on the site.

Issue 10.2.2 of the Plan identifies that where the nature, character, and effects of non-residential activities are compatible with the character of residential areas, there is no reason to prevent them from being established. It is also noted that Home Occupations should not be permitted to ‘develop to such a scale or intensity as would cause detriment to local residential character’ by giving rise to effects such as excessive or unusual traffic volumes or excessive noise.

In order to address the uncertainty, and considering the nature of home occupation, the Council proposes to clarify that a Home Occupation is restricted to those resident at the address, provided that one staff member that is not part of the household unit (ie does not live on the site) may also be employed as part of the home occupation. The Council considers it is appropriate to provide for one additional employee for the following reasons:

- One additional person will not create excessive vehicle movements to or from the site.
- Allowing a business to operate from a residential dwelling that employs a number of people that are not part of the household residing on the site will generate a level of activity on the site that is out of keeping with the amenity and character of residential neighbourhoods.

Additional changes are proposed that would ensure the definition is consistent with the Wairau – Awatere Resource Management Plan definition of “Home Occupation” in terms of escort agencies, brothels and massage parlours.

Proposed Changes

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

- a) *Performed only by a member of the household residing in the dwelling unit or accessory building in which it is carried on; and*
- b) *Is incidental and secondary to the use of the dwelling unit for residential purposes.*

The person 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, motor body building, fish processing, and any other 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.

Submissions

R Evans (12/14) opposes this amendment as the single person limit is restrictive and limits start-up businesses. Instead, the additional single person limit should be removed and the definition allow for up to five people as provided for in the 'Home Stay' definition.

Assessment

In my view the intention of the change is to allow some limited commercial activity (including an additional person not residing on site) in residential zones without detracting from the amenity described in Objective 10.2.2.1 and associated policies on page 10-9 of the Urban Section of the MSRMP.

In relation to the submission received I consider that allowing a business to operate from a residential dwelling that potentially employs more than one person (and up to five persons) who is not part of the household residing on the site will generate a level of activity on the site that is out of keeping with the amenity and character of residential neighbourhoods in terms of matters such as noise, vehicle movements and residential coherence. Such an activity is likely to be more appropriate in the Commercial Zones.

Recommendation

1 That the submission of R Evans (12/14) be **rejected**.

2 That the definition of 'Home Occupation' be amended as follows:

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

- (a) Performed only by a member of the household residing in the dwelling unit or accessory building in which it is carried out; and*
- (b) Is incidental and secondary to the use of the dwelling unit for residential purposes.*

The person 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 8 – Include drainage channels in the rules requiring discharge setbacks from water bodies

Issue

The existing provisions in the Plan relating to setbacks (in various zones) require that discharges be setback from water bodies. However, this exclusion does not cover drainage channels (which currently not defined in the Plan). Drainage channels carry water, so the potential for contamination is potentially the same as it is for rivers, lakes and wetlands. Often drainage channels flow into rivers, and not having a setback for drainage channels may prevent the maintenance of water quality in those rivers. It is therefore considered appropriate to define “drainage channel” and add “drainage channel” to all of the existing setback rules in order to ensure that discharges are also appropriately set back from drainage channels. Generally the discharges are from on-site effluent disposal systems, liquid waste, offal pits, and solid waste facilities. The majority of the setbacks required are between 20m and 30m although some are greater.

Proposed Changes

Drainage channels are not presently defined in the MSRMP and it is proposed to insert the same definition as in the WARMP as follows:

DRAINAGE CHANNEL means an artificial or other watercourse maintained or created for the purposes of removing drainage, stormwater and ponded surface water.

To add “*or drainage channel*” to the end of a number of conditions requiring a setback from surface water bodies for the discharge of contaminants onto or into land.

Submissions

Two submissions oppose this Change. K Suleiman (4/19) provides no reasons for the opposition, and R Evans (12/15) considers that the proposed Change restricts development and adds significant costs to the District. The submitter requests that ‘artificial or other’ be removed from the proposed definition, and that it be redefined to include flowing streams or rivers.

Royal Forest and Bird Protection Society (15/28) support the proposed Change.

Assessment

The proposed amendments should have a positive effect by improving the water quality in waterbodies by reducing contaminants entering drains. Notwithstanding this R. Evans has raised some matters in respect of the changes affecting development. In my view he suggested change by the submitter of removing “artificial” from the definition undermines the very nature of a drainage channel and is not favoured.

The points raised by the submitters should be further clarified at the hearing but at this stage it is considered the changes should be implemented given the benefits that will accrue in terms of water quality. However, items such as offal pits could be deleted given their potential lower impact and location below ground. This approach is consistent with that taken in respect of Plan Change 61 to the WARMP. A consistent approach is of benefit in the administration of the different plans in the district.

At this stage it is recommended that the majority of changes are accepted although this may change following evidence at the hearing.

Recommendation

1. That the submissions of K Suleiman (4/19), R Evans (12/15) and the Royal Forest and Bird Protection Society (15/28) be **accepted in part**.

2. That the Plan be amended by adding:

i) The following definition to Chapter 25 (Definitions):

DRAINAGE CHANNEL means an artificial or other watercourse maintained or created for the purposes of removing drainage, stormwater and ponded surface water.

ii) "or drainage channel" at the end of each of the following conditions:

29.1.7.2.6

30.1.9.2.6

36.1.7.2.6

36.1.7.3 a)

~~36.1.7.6.1 b)~~

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

Issue

A number of references in the Plan are made to a ‘Hazards Register’. There is no such register and the Council has no plans to introduce one.

Proposed Changes

In order to remove the unnecessary references, Plan Change 26 proposes to remove the words “*or listed in the Hazards Register*” from a number of rules throughout the Plan.

Submissions

No submissions were received on this change.

Assessment

Given the absence of submissions the amendment is recommended to be accepted.

Recommendation

- | | |
|---|--|
| 1 | That the Plan be amended by deleting “or listed in the Hazards Register” from the following discretionary activity rules:

29.3 (second bullet point)

30.4 (second bullet point)

31.4 (second bullet point)

32.4 (second bullet point)

33.4 (First bullet point)

34.4 (second bullet point)

35.4 (first bullet point)

36.4 (second bullet point)

37.3 (third bullet point) |
|---|--|

9 Item 10 – Garden Maintenance

Issue

The MSRMP is based on the presumption that any activity not expressly provided for requires resource consent. The maintenance of vegetation (such as trimming or pruning) or the removal of trees is not provided for as a permitted activity in the rules in the Plan at present. Accordingly, normal garden maintenance activities could potentially require resource consent. To remove any doubt it is appropriate that the Plan provide for such activities, subject to appropriate protection of existing heritage or scheduled trees and areas of existing significant indigenous vegetation (which are located in the Rural and Conservation Zones), given that minimal adverse effects are likely to arise.

Proposed Changes

Plan Change 26 introduces a new general rule that provides for the maintenance or removal of trees and vegetation as a permitted activity, 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 Rural Zones or the Conservation Zone.

Submissions

Clintondale Trust Trust – Whyte Trustee Company Ltd (2/30) considers that the proposed amendment is inconsistent as it appears to conflict with Rule 30.1.7.1 which provides for vegetation clearance in the Rural zones as a permitted activity. Excluding the rural zones from the new rule would discourage further installation of such amenity, or maintenance of existing trees. The rule should be amended to remove the exclusion of Rural zones.

Assessment

The intention of the Plan Change is to introduce a rule that removes any doubt that normal garden maintenance activities are permitted. In my view this is a common sense approach.

The submission from Clintondale Trust – Whyte Trustee Company Ltd has interpreted the rule as not applying to the Rural Zones, which is generally correct as vegetation clearance is generally a permitted activity in the Rural Zones subject to conditions. However to clarify the situation a further amendment is suggested to enable garden maintenance provided conditions relating to significant indigenous vegetation are complied with.

Recommendation

1. That the submission of Clintondale Trust – Whyte Trustee Company Ltd (2/30) be **accepted**.
2. That the Plan be amended by introducing new Rule 26.6 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 Rural Zones or in~~ the Conservation Zone.
- (c) Where the activity occurs in the Rural 1 and 2 Zones it complies with Rule 36.1.5.4

Appendix 1

ITEM 1 Definition of "Family Flat"

Submitter #	Submitter	Support/Oppose/	Recommendation
10/24	F Patchett	Support	Accept in part
9/23	K & L Morgan	Support	Accept in part
3/4	NZ Institute of Surveyors	Oppose	Reject
12/10	R Evans	Oppose	Reject
4/18	K Suleiman	Oppose	Reject

ITEM 2 Setback from water bodies for reasons other than avoiding flood hazard

Submitter #	Submitter	Support/Oppose/	Recommendation
12/11	R Evans (12/11)	Oppose	Reject
80/117	Royal Forest and Bird Protection Society	Support	Accept

ITEM 3 Clarify that utility provisions apply to "requiring authority"

Submitter #	Submitter	Support/Oppose/	Recommendation
6/8	Marlborough Amateur Radio Club	Oppose	Accept in part
11/25	NZ Association of Radio Transmitters	Oppose	Accept in part
<i>F</i>	<i>K Hynds</i>	<i>Supports submission</i>	Accept in part
<i>F</i>	<i>P Ormandy</i>	<i>Supports submission</i>	Accept in part
<i>F</i>	<i>W Harris</i>	<i>Supports submission</i>	Accept in part
<i>F</i>	<i>G Bateman</i>	<i>Supports submission</i>	Accept in part

<i>F</i>	<i>K McVie</i>	<i>Supports submission</i>	<i>Accept in part</i>
<i>F</i>	<i>M Bull</i>	<i>Supports submission</i>	<i>Accept in part</i>
<i>F</i>	<i>David Karrasch</i>	<i>Supports submission</i>	<i>Accept in part</i>
<i>F</i>	<i>R Kiessig</i>	<i>Supports submission</i>	<i>Accept in part</i>
<i>F</i>	<i>I Boot</i>	<i>Supports submission</i>	<i>Accept in part</i>
<i>F</i>	<i>M Spearman</i>	<i>Supports submission</i>	<i>Accept in part</i>
<i>F</i>	<i>K Browning</i>	<i>Supports submission</i>	<i>Accept in part</i>
<i>F</i>	<i>L Boyle</i>	<i>Supports submission</i>	<i>Accept in part</i>
<i>F</i>	<i>K O'Sullivan</i>	<i>Support Submission</i>	<i>Accept in part</i>
<i>F</i>	<i>A Barron</i>	<i>Support Submission</i>	<i>Accept in part</i>
<i>F</i>	<i>E Scudamore</i>	<i>Support Submission</i>	<i>Accept in part</i>
<i>F</i>	<i>S Rowe</i>	<i>Support Submission</i>	<i>Accept in part</i>
<i>F</i>	<i>K Hampshire</i>	<i>Support Submission</i>	<i>Accept in part</i>
<i>F</i>	<i>R Futter</i>	<i>Support Submisison</i>	<i>Accept in part</i>
<i>F</i>	<i>R Cole</i>	<i>Support Submisison</i>	<i>Accept in part</i>
<i>F</i>	<i>J Cullen</i>	<i>Support Submission</i>	<i>Accept in part</i>
<i>F</i>	<i>R de Wit</i>	<i>Support Submission</i>	<i>Accept in part</i>

<i>F</i>	<i>A McCaw</i>	<i>Support Submission</i>	Accept in part
<i>F</i>	<i>W Bottomley</i>	<i>Support Submisison</i>	Accept in part
<i>F</i>	<i>D McGuire</i>	<i>Support Submission</i>	Accept in part
<i>F</i>	<i>B Heywood</i>	<i>Support Submission</i>	Accept in part
<i>F</i>	<i>P Callow</i>	<i>Support Submission</i>	Accept in part

ITEM 4 Subdivision Chapter (Chapter 27)

4.1 Removal of references to compliance with Assessment Matters

Submitter #	Submitter	Support/Oppose/	Recommendation
8/21	Marlborough District Council	Oppose	Accept
3/5	NZ institute of Surveyors	Oppose	Accept

4.2 Clarification regarding building platforms

Submitter #	Submitter	Support/Oppose/	Recommendation
8/20	Marlborough District Council	Oppose	Accept in part
3/6	NZ Institute of Surveyors	Oppose	Accept in part
12/12	R Evans	Oppose	Accept in part

4.3 Access standards – Restricted Discretionary Activity

Submitter #	Submitter	Support/Oppose/	Recommendation
12/13	R Evans	Oppose	Reject
4/17	K Sulieman	Oppose	Reject

4.4 Access standards -.Local Government Act

Submitter #	Submitter	Support/Oppose/	Recommendation
	No submissions received.		

4.5 Cross lease or Unit Title Subdivisions

Submitter #	Submitter	Support/Oppose/	Recommendation
	No submissions received.		

ITEM 5 Amendments to permitted marine farming rules

Submitter #	Submitter	Address	Support/Oppose/	Recommendation
1/2	New Zealand King Salmon Co. Ltd	PO Box 1180, Nelson 7040	Oppose	Accept in part
7/9	Marine Farming Association Inc	PO Box 86, Blenheim	Oppose	Accept in part
20/31	B Gibson	PO Box 925, Blenheim 7240	Oppose	Accept in part
13/16	McLaren Family Trust	Hardy-Jones Clark, PO Box 646, Blenheim 7201	Oppose	Accept in part

ITEM 6 Wineries

Submitter #	Submitter	Support/Oppose/	Recommendation
8/22	Marlborough District Council	Oppose	Accept
2/29	Clintondale Trust– Whyte Trustee Company Ltd	Oppose	Accept in part
14/26	Guernsey Road Residents Association	Oppose	Reject

ITEM 7 Amendments to definition of “Home Occupation”

Submitter #	Submitter	Support/Oppose/	Recommendation
12/14	R Evans	Oppose	Reject

ITEM 8 Include drainage channels in the rules requiring discharge setbacks from waterbodies

Submitter #	Submitter	Support/Oppose/	Recommendation
4/19	K Suleiman	Oppose	Accept in part
12/15	R Evans	Oppose	Accept in part
15/28	Royal Forest and Bird Protection Society	Support	Accept in part

ITEM 9 Remove references to a “Hazards Register” as none exists

Submitter #	Submitter	Support/Oppose/	Recommendation
	No submissions received.		

ITEM 10 Garden Maintenance

Submitter #	Submitter	Support/Oppose/	Recommendation
2/30	Clintondale Trust – Whyte Trustee Company Ltd	Oppose	Accept

Appendix 2

ITEM 1 DEFINITION OF “FAMILY FLAT”

Insert the following definition of “Family Flat” into Chapter 25 of the Marlborough Sounds Resource Management Plan:

Means a residential unit of less than 70 square metres gross floor area used to accommodate a dependent relative of a person residing in the principal residential unit on the property.

ITEM 2 BUILDING SETBACK FROM WATER BODIES FOR REASONS OTHER THAN AVOIDING FLOOD HAZARD

Amend the following rules in each identified section as shown below:

2.1. Urban Residential Zone (Chapter 29)

29.1.4 Hazards/Riparian Management

29.1.4.2 ~~Flood Protection – General~~

All proposed buildings ...

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 stopbank~~ except for those rivers 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~~

Unless specified...

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 stopbank~~ except for those rivers 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~~

Unless specified...

2.4 Urban Industrial Zone (Chapter 32)

32.1.6 Hazards/Riparian Management

32.1.6.2 ~~Flood Protection~~

Unless specified ...

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 stopbank~~ ~~except for those rivers 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~~

All proposed buildings ...

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~~

All proposed buildings....

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 stopbank~~ ~~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~~

All proposed buildings...

2.8 Rural Zones (Chapter 36)

36.1.3.3 Hazards/Riparian Management

36.1.3.3.2 ~~Flood Protection~~

Unless specified in

2.9 Rural Township Zone (Chapter 37)

37.1.2.7 Hazards/Riparian Management

37.1.2.7.2 Flood Protection

Unless specified in ...

2.10 Conservation Zone (Chapter 38)

38.1.9 Hazards/Riparian Management

38.1.9.2 Flood Protection

Unless specified in ...

ITEM 3 CLARIFY THAT UTILITY PROVISIONS APPLY TO REQUIRING AUTHORITY

Insert the following definition of Utility into Chapter 25 of the Plan:

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

ITEM 4 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 note 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
<i>Sounds Residential (also applies to Town Commercial)</i>	1 & 2	3	NA	NA
	1-4	5	5	NA

	<u>3- 6</u>	<u>5</u>	<u>NA</u>	<u>Width allows passing.</u>
<u>Town Commercial</u>	<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:

~~³ Where no frontage is available the Council must be able to issues a certificate under section 321 of the Local Government Act 1974, to confirm that legal physical access is available.~~

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

~~² Where no frontage is available the Council must be able to issues a certificate under section 321 of the Local Government Act 1974, to confirm that legal physical access is available.~~

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

~~³ Where no frontage is available the Council must be able to issues a certificate under section 321 of the Local Government Act 1974, to confirm that legal physical access is available.~~

4.5 CROSS-LEASE/UNIT PLAN SUBDIVISIONS Rule 27.2.3.2 (Chapter 27)

Amend Rule 27.2.3.2 as follows:

Existing Development

Cross-lease or Unit Plan subdivisions 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 subdivisions 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 5 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 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 discharging of coastal water and discharge of biodegradable and organic waste matter;*~~

(ii) 3. That the definition of “Marine Farming” is amended as follows:

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

b) Any such activity where the fish ,aquatic life ,or seaweed being farmed cannot be distinguished ,or be kept separate, from naturally occurring fish ,aquatic life ,or seaweed.

ITEM 6 WINERIES

- (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 and storage of wine.

ITEM 7 AMENDMENTS 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 of the household residing in the dwelling unit or accessory building in which it is carried on; and
- b) Is incidental and secondary to the use of the dwelling unit for residential purposes.

The person 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 ...

ITEM 8 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, stormwater and ponded surface water.

- (i) 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 waterbody, groundwater or coastal water or drainage channel.

8.2 Sounds Residential Zone (Chapter 30)

Rule 30.1.9.2.6

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 waterbody, 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 waterbody, groundwater or coastal water or drainage channel.

Rule 36.1.7.3 a)

The discharge shall not be within 20 metres of a surface waterbody 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 waterbody, 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 36.1.7.8.1 a)

- a) The discharge shall occur no less than 50 metres from any surfacewater, 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 waterbody, 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 of any contaminant beyond the property boundary or into any surface waterbody, 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 any surface waterbody, groundwater or coastal water or drainage channel.

ITEM 9 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 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;

9.3 Town Commercial Zone

Amend Rule 31.4 (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 Hazards Register~~; and

9.4 Urban Industrial Zone

Amend Rule 32.4 (second bullet point) as follows:

Activities 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:

Activities listed as permitted activities 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~~;

9.6 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 Hazards 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 ~~or listed in the Hazards Register~~;

9.8 Rural Zones

Amend Rule 36.4 (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 Hazards Register~~;

9.9 Rural Township Zone

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 10 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.