

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 32 of the Resource Management Act 1991



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## INTRODUCTION

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This report sets out an evaluation of the proposal by Marlborough District Council to change the Marlborough Sounds Resource Management Plan (the Plan) in respect of Plan Change No. 28: Minor Amendments

The purpose of the Plan Change is to make a number of minor additions and alterations to the provisions of the Plan to:

- Remove redundant provisions;
- Provide greater clarity of the existing provisions to improve implementation

The Plan Change results in amendments to the rules and definitions.

In preparing a change to the Plan, the Council has a duty under section 32 of the Resource Management Act 1991 (RMA) to undertake an evaluation of a number of matters. In particular, Section 32 states:

- (3) *An evaluation must examine –*
  - (a) *N/A*
  - (b) *Whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.*
- (4) *For the purposes of this examination, an evaluation must take into account –*
  - (a) *the benefits of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.*

Section 32 (5) requires that a report is prepared that summarises the evaluation and gives reasons for that evaluation. This report satisfies that requirement.

## PART A: EXPLANATION OF ITEMS AND PROPOSED CHANGES

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As a result of administering the Plan over a number of years the Council has identified a number of provisions in the Plan that require amendment to provide greater clarity and remove inconsistencies. The items subject to this plan change are generally minor and have not required in depth research. The items, identified as Items 1-15 below, and the reasons for the amendments, are explained below. The changes are shown with new text *italicised and underlined* and deleted text is shown by ~~strikeout~~.

### Item 1: Definition of 'Family Flat'.

The definition of 'Residential Unit', 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. The absence of an appropriate definition has created an issue regarding the appropriate scale of buildings constructed as family flats. Occasions have arisen where a second substantial residential dwelling has been constructed under the auspices of a 'Family Flat' on the same site. However, the intent of providing for Family Flats is to provide for a family member in a small self-contained unit.

This matter was recently the subject of appeals to both the Environment Court and the High Court, with the High Court determining that a family flat need not be part of a larger building<sup>1</sup>. The Court went on to note that

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<sup>1</sup> Beavon Investments Ltd v Marlborough District Council [2012] NZHC 113, Paragraph [21].

*If it is to be a permitted use where there is already a dwelling on the title a family flat must be an adjunct to the principal residence, a subordinate dwelling. That follows when one inquires whose family is to use the flat; it is the family of the owner of the land and occupier of the principal residence. That concept may have several dimensions, including by way of illustration the relationship of the occupants to one another (which relationship may be not only familial but also dependant) and the size and design of the flat, its physical relationship and that of its services to the principal dwelling, and its intended lifespan on the site<sup>2</sup>.*

The Council considers it is appropriate to include a definition that restricts the size of a family flat, as well as to clarify that family flats are intended to house a family member of someone occupying the principal residential unit on the property. In essence this will allow the creation of family flats as an ancillary use to the principal residential activity on the site, and remove the risk that a secondary dwelling could be established. This also avoids the risk that once established, a second dwelling could be subdivided into its own Certificate of Title.

#### *Proposed Change*

The Plan Change seeks to insert the following definition of “Family Flat” into Chapter 25 of the Marlborough Sounds Resource Management Plan:

*Means a building of less than 70m<sup>2</sup> gross floor area used to accommodate a family member of a person residing in the principal residential unit on the property.*

#### **Item 2: Setback from water bodies**

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. This would enable 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 would allow the Council to consider the actual and potential adverse effects of such a structure on matters such as natural character and amenity values.

This change can be effected without substantively altering the existing content and rule structure of the Plan, and requires a number of minor changes to the headings of some of the existing rules, and the subsequent removal of a number of rules that provide for buildings to intrude into the 8 metre setback as a minor non-compliance.

These amendments also require some consequential amendments to delete references to now redundant exceptions.

#### *Proposed Changes*

(i) Amend the heading for the following rules by inserting “Hazards/*Riparian Management*” into the heading:

29.1.4

30.1.7

31.1.2.7

32.1.6

33.1.9

34.1.8

35.1.1.5

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<sup>2</sup> Ibid, para [22]

36.1.3.3

37.1.2.7

38.1.9

(ii) Delete the heading “Flood Protection” from the following 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

38.1.9.2

(iii) Delete “river of” and “except for those rivers identified in the Schedule in Appendix I and the Ecology maps in Volume Three” from the following limited discretionary rules:

29.2.1

30.3.1

32.3.1

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 Hazards/Riparian Management**

**29.1.4.1** *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.*

**29.1.4.2 ~~Flood Protection – General~~**

*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.*

**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;~~

### Item 3: Clarify that utility provisions apply to “requiring authority”

The establishment of utilities is provided for in the rules in section 26.5 of the Plan.

As the rules are presently worded, it is possible to interpret them as allowing any person to undertake the installation of a utility. For example, under the present wording, it would be possible for a 25 metre high radio aerial to be erected in a residential zone by any person. However, the intention of the rules is that they should only apply to Network Utility Operators, and not private individuals or businesses.

In addition Rule 27.1.1 provides for the subdivision of a utility as a permitted activity. Again it is not considered appropriate for a private radio aerial, or any other utility erected by a private individual or business to be subdivided onto a separate section.

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

*Proposed Change:*

- (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.*

- (ii) Insert the following note in section 26.5 (Utilities):

*In this section, ‘Utility’ has the same meaning as ‘Network Utility Operation’ as those terms are defined in section 166 of the Act.*

### Item 4: Subdivision Chapter

#### 4.1 Remove references to compliance with Assessment Matters from the rules relating to controlled and discretionary subdivision activities.

The existing rules for Controlled and Discretionary Subdivision activities (Rules 27.2 and 27.3 respectively) identify that some Assessment Matters need to be complied with in order for an activity to qualify as a controlled or discretionary activity. This is an inappropriate application of Assessment Matters, as it is *ultra vires* to rely upon Assessment Matters to determine the activity status of an activity. This issue was discussed and confirmed by the Environment Court<sup>3</sup>. Assessment Matters are intended to identify the matters to be considered in the event of rules or standards being breached, rather than being the determinant of a particular activity status.

This matter can be rectified by deleting the requirement for Assessment Matters to be complied with in order for a subdivision to be treated as a Controlled or Discretionary Activity, and instead including a reference to the rule that sets out the matters over which the Council has reserved its control.

*Proposed Changes:*

#### (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.*

<sup>3</sup> TR Norton et al v Marlborough District Council, C30/2009.

**(ii) 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.

**4.2 Clarify that building platforms must be free from easements and yard setbacks**

The Plan subdivision standards require a building platform of certain dimensions (that vary according to zone) be available on any allotment to be created to ensure that it is possible to build upon any allotment created. Applications have been received for some sites where easements and yard setbacks encroach into building platform, meaning essentially that not all of the identified building platform can be built upon. This in turn creates difficulties for subsequent owners of properties when the time comes to erect a dwelling on the site. The issue has been remedied in the past by requiring resource consents to allow the reduced setback, or to relocate easements.

In order to avoid this issue arising in the future, it is appropriate to ensure that building platforms do not intrude into yard setbacks and are not located over existing easements.

*Proposed Change:*

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

<sup>3</sup> 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.

**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. In order to remove the confusion it is appropriate to separate the standards.

*Proposed Change*

Amend Rule 27.3.2 as follows:

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

**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.

*Proposed Change*

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



~~3 Where no frontage is available the Council must be able to issue 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:

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

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

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

#### 4.5 Cross-Lease or Unit Plan Subdivisions

At present there is no rule in the Marlborough Sounds Resource Management Plan 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 also included in the Marlborough Sounds Resource Management Plan.

*Proposed Change:*

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 this site.*

#### Item 5: Amendments to the permitted marine farming activity rules

The rules as presently worded provide 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 Resource Management Act, 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.*
- (2) *If, immediately before the commencement of section 17 of the Resource Management Amendment Act (No 2) 2011, a regional coastal plan contains a rule that authorises as a permitted activity any part of an aquaculture activity in the coastal marine area—*
  - (a) *any person may act, or continue to act, in accordance with the rule until any alteration of the rule has legal effect; but*
  - (b) *a regional council must, as soon as is reasonably practicable and not later than 2 years after the commencement of section 17 of the Resource Management Amendment Act (No 2) 2011, initiate a review of the rule under section 79 and propose to alter any provisions necessary to ensure compliance with subsection (1), in the manner set out in Part 1 of Schedule 1 and this Part.*

Removal of the Permitted Activity rule relating to harvesting marine farming products is therefore appropriate, given that the Act does not allow a Council to have any aquaculture related activities as permitted activities.

Furthermore, the existing definition of 'Marine Farming' includes harvesting activities, and it is therefore unnecessary to have a separate rule when the activity is already adequately addressed in other rules relating to Marine Farming Activities.

*Proposed Change:*

Delete the following activity from the list of permitted activities in Rule 35.1 (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 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;**~~

#### **Item 6: Wineries**

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.

To remove uncertainty, it is proposed to include a definition of 'Winery' which reflects the functions these activities involve.

#### *Proposed Change:*

Add a definition of 'Winery' in Chapter 25 (Definitions) as follows:

*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.*

#### **Item 7: Amend the definition of 'Home Occupation' to reflect the intention that it can only be undertaken by a member of the household, plus one additional person.**

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.

The Council is also aware that there is an exclusion in the definition of Home Occupation in the Wairau/Awatere Resource Management Plan for massage parlours and escort agencies. This exclusion is currently not included in the definition in the Marlborough Sounds Resource Management Plan. The Council wishes to exclude these activities from the definition of Home Occupation in the Marlborough Sounds Resource Management Plan to ensure a consistent approach towards these activities in the District, as the Council does not consider that they are appropriate activities for residential areas. The definition will also be amended to exclude Brothels, as these have similar potential effects as the other two activities. The exclusion of these activities is consistent with the existing definition, which excludes activities which would potentially detract from the amenities of the neighbourhood or locality.

The Council does not have a Brothel bylaw at present, and does not propose to introduce one. This option is therefore not available.

*Proposed Changes:*

Amend the definition of Home Occupation 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 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.*

**Item 8: Include drainage channels in the rules requiring discharge setbacks from water bodies.**

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. 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 add "drainage channel" to all of the existing setback rules.

Drainage channels are not presently defined in the Marlborough Sounds Resource Management Plan. However, they are defined in the Wairau/Awatere District Plan as set out below, and it is considered appropriate by the Council to include a definition in the Marlborough Sounds Resource Management Plan for consistency.

*Proposed Changes:*

Add the following definition to section Chapter 25 (Definitions) of the Resource Management Plan:

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

Add "or drainage channel" to the end of the following conditions requiring a setback from surface water bodies for the discharge of contaminants onto or into land

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**

A number of existing rules in the Plan refer to a hazard register. No such register exists and the reference can therefore be deleted.

*Proposed Changes*

Delete the words "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)

**Item 10: Garden Maintenance**

As the Plan contains a presumption that any activity not expressly provided for requires resource consent, an issue has arisen over the maintenance of trees and vegetation. 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*

Include 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.*

## **SECTION 32 REQUIREMENTS**

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As indicated above in preparing any change to the Plan, the Council has a duty under section 32 of the Resource Management Act 1991 (RMA) to evaluate a number of matters.

The section 32 process of the RMA assists in ensuring that good environmental outcomes are achieved, plan provisions are targeted at achieving the purpose of the RMA by the most appropriate methods, there is sound policy analysis to base decisions and for reassessing whether the chosen provisions are necessary and appropriate once they are in use. An evaluation under section 32 has to be carried out before the Council publicly notifies the proposed change and then again before making a decision on submissions received. A section 32 evaluation must examine the extent to which each objective, policy, rule and method is the most efficient and effective and/or appropriate way to achieve the purpose of this Act. It must also take into account the benefits and costs of policies, rules, or other methods, and the risk of acting or not acting.

## **STRUCTURE OF THIS REPORT**

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Part A: Issue Identification, including background, investigation and analysis of the issues determined through Council initiated research and public consultation.

Part B: A summary of the legislative framework, within which resource and environmental issues are currently managed.

Part C: An evaluation under section 32, as required under the RMA, of the actual changes to the Plan.

The proposed Schedule of Changes to the Plan, which sets out the proposed plan change, is attached as **Appendix 1**.

## **PART A: BACKGROUND AND RESEARCH UNDERTAKEN**

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The changes proposed have been identified by the Council as a result of administering the Plan over a number of years. Inconsistencies and uncertainty over definitions and the appropriate application of rules have been identified. The issues subject to this plan change are minor and have not required any in depth research.

## **PART B: LEGISLATIVE REQUIREMENTS**

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As indicated above in preparing any change to the Plan, the Council has a duty under section 32 of the Resource Management Act 1991 (RMA) to evaluate a number of matters.

The section 32 process of the RMA assists in ensuring that good environmental outcomes are achieved, plan provisions are targeted at achieving the purpose of the RMA by the most appropriate methods, there is sound policy analysis to base decisions and for reassessing whether the chosen provisions are necessary and appropriate once they are in use. An evaluation under section 32 has to be carried out before the Council publicly notifies the proposed change and then again before making a decision on submissions received. A section 32 evaluation must examine the extent to which each objective, policy, rule and method is the most efficient and effective and/or appropriate way to achieve the purpose of this Act. It must also take into account the benefits and costs of policies, rules, or other methods, and the risk of acting or not acting.

## **Purpose of the Resource Management Act**

The purpose of the Resource Management Act 1991 (RMA) is to promote the sustainable management of natural and physical resources. Sustainable management means:

*“managing the use, development and protection of natural and physical resources in such a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety while-*

- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) Safeguarding the life supporting capacity of air, water, soil and ecosystems; and*
- (c) Avoiding, remedying or mitigating any adverse effects of activities on the environment”*

In achieving the purpose of sustainable management, the Council must have regard to a number of principles set out in the RMA. These include recognition and provision for a number of matters of national importance described in section 6 of the RMA. The Council must also have particular regard to matters such as amenity and heritage values, kaitiakitanga, quality of the environment, and ecosystem values (section 7) and take into account the principles of the Treaty of Waitangi (section 8).

The RMA enables the use and development of resources as long as such use does not adversely affect the environment in a way that impacts the foreseeable needs of future generations, the life supporting capacity of ecosystems, other users or the environment. This is the concept of “sustainability” which the RMA promotes as its overriding purpose.

The changes proposed are all minor, and will not alter the existing structure or intent of the rules in the District Plan. The changes will remove existing uncertainties in the Plan provisions and as such will promote the Act’s purpose.

## **Marlborough District Council Responsibilities**

The Marlborough District Council is a unitary authority, that is, it has the functions, powers and duties under the RMA of both a district council and a regional council. Its functions are set out in sections 30 and 31 of the RMA. Of most relevance to this plan change are the district functions set out in section 31, particularly in relation to controlling the actual and potential effects of the use, development or protection of land. This also extends to the control of subdivision where this is a method used to carry out functions.

## **Marlborough Regional Policy Statement**

The Marlborough Regional Policy Statement (MRPS) was made operative in July 2005. The MRPS provides a community based vision and direction for the management of the natural and physical resources of Marlborough. The vision and direction sets the framework for more detailed consideration of issues in the Marlborough’s resource management plans.

A review of the MRPS is currently underway. Until the review is complete the existing provisions of the MRPS will continue to apply.

The amendments sought in this Plan Change are relatively minor and will improve the interpretation and administration of the Plan. There are no changes that will give rise to inconsistencies with the Objectives and Policies of the Regional Policy Statement.

## Wairau/Awatere Resource Management Plan

In addition to preparing a regional policy statement, the Council's unitary authority status creates an obligation to prepare a coastal plan, a district plan and such other regional plans as are necessary to promote the sustainable management of natural and physical resources. Due to its unitary authority status the Council has taken the opportunity to integrate the management of the Region's resources by preparing two combined regional, district and coastal plans, being the Marlborough Sounds Resource Management Plan for that part of Marlborough north of the Richmond Ranges, and the Wairau/Awatere Resource Management Plan for the part of Marlborough south of the Richmond Ranges.

The amendments to the Marlborough Sounds Resource Management Plan will improve its consistency with the Wairau/Awatere Resource Management Plan.

The Plans were publicly notified in November 1997 and made operative in March 2009.

### **PART C: SECTION 32 EVALUATION**

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The Section 32 process must be transparent and well documented, with all assumptions and decisions justified. This helps to ensure that:

- Good environmental outcomes are achieved.
- Plan provisions are targeted at achieving the purpose of the RMA by the most appropriate methods.
- Councillors (as decision makers) have sound policy analysis on which to base their decisions about resource management issues.
- A sound basis is provided for reassessing whether the chosen provisions are necessary and appropriate once they are in use and the environmental outcomes become apparent.

Section 32(4) of the Act states that this evaluation must take into account:

- (a) *the benefits and costs of policies, rules or other methods; and*
- (b) *the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.*

### **Evaluation of Options**

Options for the various items are considered below although the nature of some of the items makes it unnecessary to identify alternative options.

#### **Item 1 – Family Flat**

##### **Option 1: Status Quo – No definition**

| <b>Benefits/Advantages</b>                  | <b>Costs/Disadvantages</b>  |
|---|---|
| No change is required to the District Plan. | Family Flats will remain as Permitted Activities in a number of zones. The issue of the potential abuse of the rules will remain, with the potential for second residential units to be constructed and subsequently subdivided , affecting residential amenity.<br><br>There will be costs associated with the consideration of resource consent applications and potentially appeals to the Environment Court and beyond. |

**Option 2: Include a definition with a restriction on size only**

| Benefits/Advantages   | Costs/Disadvantages  |
|---|--|
| Placing a limit on the area that may be devoted to a Family Flat will create certainty when interpreting the Plan and determining whether or not a flat qualifies as a 'Family Flat'. | Restricting the area of a Family Flat without identifying intended occupants could result in flats being occupied by people unrelated to the occupants of the principal residence, in essence creating a second residential unit on the site (with subdivision potential) and potentially creating a situation where the permitted residential density is exceeded |

**Option 3: Include a definition with a restriction on occupancy only**

| Benefits/Advantages  | Costs/Disadvantages  |
|--|--|
| Making it clear that family flats are intended for occupation by people related to the household residing in the principal residential unit provides certainty when administering the District Plan. | The absence of a restriction of the appropriate size of a Family Flat could result in an inappropriately large building being constructed under the auspices of a Family Flat, increasing the density on site. |

**Option 4: Include a definition with restrictions on size and occupancy**

| Benefits/Advantages  | Costs/Disadvantages   |
|--|---|
| Such a definition creates certainty when determining whether or not an activity qualifies as Family Flat, and clarifies the Council's expectation that Family Flats are intended to be small, ancillary units intended for occupancy by a family member. | Family Flats that exceed the size limit or not used by a family member will be required to go through the resource consent process. |

**Preferred Option**

Option 4 is considered the most effective and efficient means of achieving the purposes of the Act.

**Item 2 –Building setback from water bodies**

**Option 1: Status Quo/Do Nothing.**

| Benefits/Advantages   | Costs/Disadvantages  |
|---|--|
| There is no change to the existing situation. Buildings will be appropriately set back to avoid flooding hazards. | The heading for the rule indicates that the rules only address hazards, when in fact the rule also applies to riparian management. Not addressing the issue will allow this unclear situation to remain. |



**Option 2: Amend the plan and enable a wider application of the rules**

| Benefits/Advantages   | Costs/Disadvantages   |
|---|---|
| <p>Amending the rules clarifies the Council's intent that buildings should be set back from all water bodies, rather than just for hazard mitigation purposes. So doing recognises that it is appropriate to require a minimum setback to ensure that waterbodies are protected from potential adverse effects of development occurring too close to their margins.</p> <p>The change is minor and removes uncertainty in the application of the rules.</p> | <p>The change to the rules will potentially restrict the location of some buildings on sites where the boundary abuts a water body.</p> |

**Preferred Option**

Option 2 is considered the most effective and efficient means of achieving the purposes of the Act.

**Item 3 – Clarify that utility provisions apply to “requiring authority”**

**Option 1: Status Quo/Do Nothing.**

| Benefits/Advantages                                  | Costs/Disadvantages  |
|--|--|
| <p>Any person may erect a utility on a property.</p> | <p>The absence of a definition could lead to uncertainty for people, including requiring authorities, in determining whether a potential development is a utility.</p> <p>Activities that may not normally considered a utility may be inappropriately located on properties or within residential areas, and be subject to the rule allowing utilities to be subdivided onto a stand-alone title.</p> |

**Option 2: Include a definition of ‘Utility’.**

| Benefits/Advantages  | Costs/Disadvantages   |
|--|---|
| <p>Defining ‘Utility’ provides certainty to requiring authorities, and to the community, that the utility rules are intended to apply only to Requiring Authorities/Network Utility Operators.</p> | <p>The community may consider that some rights have been removed. However, the insertion of the definition only clarifies the intention of the rules.</p> |

**Preferred Option**

Option 2 is considered the most effective and efficient means of achieving the purposes of the Act.

**Item 4 – Changes to Subdivision Section**

**4.1 Clarify that building platforms must be free from easements and yard setbacks**

**Option 1: Status Quo/Do Nothing.**

| Benefits/Advantages  | Costs/Disadvantages   |
|--|---|
| <p>There are few restrictions on where building platforms may be sited on a new lot, providing greater flexibility to future owners when they come to build on a site.</p> | <p>The absence of appropriate guidance on platform locations has resulted in building platforms being approved such that they intrude into setbacks or are placed over easements, resulting in additional costs for</p> |

|  |   |
|--|---|
|  | future owners as they attempt to gain resource consent to utilise the platform. If consents cannot be obtained then parts of the building platforms may not be able to be used. |
|--|---|

**Option 2: Exclude setback areas and easements from being included in building platform areas**

| Benefits/Advantages   | Costs/Disadvantages   |
|---|---|
| <p>Owners of lots will not be required to seek additional approvals to build on parts of building platforms that intrude into setbacks or cover easements.</p> <p>Building platforms are designed appropriately for individual sites.</p> <p>Removes any misunderstanding of what a building platform is.</p> | <p>There may be additional costs accrued by developers in designing subdivisions and lot layouts.</p> |

**Preferred Option**

Option 2 is considered the most effective and efficient means of achieving the purposes of the Act.

**4.2 Remove references to section 321 of the Local Government Act**

A number of notes to the Rules in the present Plan refer to section 321 of the Local Government Act. This section has been repealed and it is therefore appropriate to remove the reference from the Plan. As this change is necessary to ensure references to repealed legislation are removed, no alternatives require consideration.

**4.3 Provision for re-subdivision of Cross Lease and Unit Title subdivisions.**

An oversight has resulted in the re-subdivision of Cross Lease and Unit Title subdivisions into a fee simple title not being provided for in the Marlborough Sounds Resource Management Plan. Such subdivisions are provided for in the Wairau/Awatere Resource Management Plan, and it is appropriate to replicate the rule in the Marlborough Sounds Plan in order to ensure a consistent approach across the Region.

**4.4 Remove references to compliance with Assessment Matters**

The present rules require compliance with stated Assessment Matters in order for activities to be considered as controlled or restricted discretionary activities. Assessment Matters are used to guide the assessment of activities, rather than be the determinant of whether a rule is breached or not. Leaving the references as they are will not remedy the *ultra vires* situation the rules presently result in. Removing the reference to the Assessment Matters is the most effective and efficient way to remedy the inappropriate references and it is not necessary to consider other options.

**Item 5 Permitted Marine Farming Activities**

Not removing the rule will leave the District Plan in conflict with the direction of the RMA that there be no permitted activity rules for marine farming activities. Harvesting of marine farming products falls within the definition of “Marine Farming”, which is appropriately provided for in the Plan rules. Accordingly, it is not necessary to consider alternatives. Removal of the permitted activity rule is considered the most effective and efficient means of achieving the purposes of the Act.

**Item 6 Wineries**

**Option 1: Status Quo/Do Nothing.**

| Benefits/Advantages   | Costs/Disadvantages  |
|---|--|
| <p>There will be no change to the way in which applications for wineries are treated.</p> | <p>Although wineries are a permitted activity, the definition is unclear which leaves room for</p> |

|  |  |
|--|--|
|  | uncertainty as to what may or may not be part of a winery. |
|--|--|

**Option 2: Include a definition of Winery in the Plan**

| <b>Benefits/Advantages</b>   | <b>Costs/Disadvantages</b>  |
|--|---|
| Adding a definition of 'Winery' will ensure that it is clear what is and is not included in such an activity, making the implementation of the rules easier. | There is already a definition of 'Wineries', so adding a definition of 'Winery' may cause some confusion. |

**Preferred Option**

Option 2 is considered the most effective and efficient means of achieving the purposes of the Act.

**Item 7 Home Occupation**

**Option 1: Status Quo/Do Nothing.**

| <b>Benefits/Advantages</b>  | <b>Costs/Disadvantages</b>  |
|---|---|
| Flexibility is provided to small business owners to choose to work from home. | <p>The definition does not impose a restriction on employees that do not reside on the site. It would be possible for a small business to be established on a site and employ additional people, increasing the vehicle movements to and from the property, and resulting in a scale of effects that is inconsistent with the character and amenity of residential areas.</p> <p>At present the definition does not prevent brothels, massage parlours or escort agencies from establishing as a Home Occupation. These activities are considered inappropriate in residential areas and may give rise to adverse effects on the character and amenity values of residential areas within which they are located.</p> |

**Option 2: Amend the definition to restrict non-resident employees to one additional person**

| <b>Benefits/Advantages</b>   | <b>Costs/Disadvantages</b>   |
|--|--|
| <p>Such a change clarifies that Home Occupations are intended to be small scale and will not generate adverse effects that are greater than would normally be expected as part of a residential development.</p> <p>Including such a limitation will allow the Council to consider the actual and potential effects of 'Home Occupations' that wish to employ additional people.</p> | <p>Home Occupations or small businesses operated from a dwelling will require resource consent if they wish to employ more than one person who does not reside on the site.</p> <p>Including this restriction does not extend so far as to exclude brothels, massage parlours and escort agencies.</p> |

**Option 3: Amend the definition to restrict non-resident employees to one additional person, and to exclude activities associated with the sex industry.**

| <b>Benefits/Advantages</b>  | <b>Costs/Disadvantages</b>   |
|---|--|
| In addition to the benefits identified in Option 2 above, this option will clarify that brothels, massage parlours and escort agencies are not anticipated uses in Residential zones and will avoid any adverse effects that may arise from | Such activities will be required to apply for resource consent process resulting in potential costs and delay. |

|   |  |
|---|--|
| <p>their location in residential areas.</p> <p>Excluding activities associated with the sex industry from 'Home Occupations' is consistent with the Council's approach in the Plan.</p> |  |
|---|--|

**Preferred Option**

Option 3 is considered the most effective and efficient means of achieving the purposes of the Act.

**Item 8 Include drainage channels in the rules requiring discharge setbacks from water bodies**

**Option 1: Status Quo/Do Nothing.**

| <b>Benefits/Advantages</b>   | <b>Costs/Disadvantages</b>  |
|--|---|
| Property owners are not restricted from discharging contaminants close to drainage channels. | Drainage channels carry and convey water which remains at risk from contamination or other adverse effects from inappropriately located discharges if setbacks do not apply to them. Water quality may deteriorate. |

**Option 2: Require setbacks from drainage channels**

| <b>Benefits/Advantages</b>   | <b>Costs/Disadvantages</b>   |
|--|--|
| Drainage channels are treated as any other water body with the potential to be contaminated or adversely affected by inappropriately located discharges.<br><br>Water quality may be improved. | Property owners are restricted from discharging close to drainage channels which may result in additional costs. |

**Preferred Option**

Option 2 is considered the most effective and efficient means of achieving the purposes of the Act.

**Item 9 Hazards Register References**

**Option 1: Status Quo/Do Nothing.**

| <b>Benefits/Advantages</b>   | <b>Costs/Disadvantages</b>  |
|--|---|
| The reference to a Hazards Register remains in the Plan, removing the need to undertake a future Plan Change to include appropriate references should the Council ever prepare a Hazards Register. | Leaving the reference to a Hazards Register in the Plan when one does not exist can create confusion for users of the Plan. |

**Option 2: Create a Hazards Register**

| <b>Benefits/Advantages</b>   | <b>Costs/Disadvantages</b>  |
|--|---|
| A central register would exist that holds information on all known hazards affecting land in the district. | The Plan already includes Hazard overlays and creating a register would be an unnecessarily time consuming and costly exercise. |

**Option 3: Delete the reference to a Hazards Register**

| <b>Benefits/Advantages</b> | <b>Costs/Disadvantages</b> |
|----------------------------|----------------------------|
|----------------------------|----------------------------|

|   |  |
|---|--|
| Confusion in Plan administration is removed as the reference to a document that does not exist will be removed. | There are no disadvantages in removing a reference to a non-existent document. |
|---|--|

**Preferred Option**

Option 3 is considered the most effective and efficient means of achieving the purposes of the Act.

**Item 10 Garden Maintenance**

**Option 1: Status Quo/Do Nothing.**

| <b>Benefits/Advantages</b>  | <b>Costs/Disadvantages</b>  |
|---|---|
| Strict control of vegetation maintenance which may enhance neighbourhood amenity. | The current presumption in the plan is that activities not provided for require resource consent. No mention is made of vegetation and tree maintenance and therefore the default position is that consent is required by persons wishing to maintain or remove vegetation or trees from their properties. This effectively precludes many normal garden maintenance activities and imposes an unnecessary burden on property owners who would be required to obtain resource consent and result in Council expending unnecessary time and resources in processing the resource consents. |

**Option 2: Include a new permitted activity rule for the trimming and removal of trees and vegetation**

| <b>Benefits/Advantages</b>   | <b>Costs/Disadvantages</b>                                  |
|--|---|
| It is appropriate to provide for the maintenance or removal of trees and vegetation that are not protected by other rules in the Plan given the absence of likely adverse effects. Notable trees and other significant vegetation are still protected through other rules.<br><br>The need for unnecessary and costly resource consents, and their processing, is avoided. | Neighbourhood amenity created by vegetation may be reduced. |

**Preferred Option**

Option 2 is considered the most effective and efficient means of achieving the purposes of the Act.

**Effectiveness of Existing Plan Provisions**

All of the changes identified are minor and will improve the interpretation and administration of the plan. The changes are necessary as in their present state, the rules or lack of appropriate definitions hinder the effective implementation and interpretation of the plan.

Overall it is considered the proposed amendments will better achieve the relevant objectives of the Plan.

## **Risk of Acting, or Not Acting, where there is Uncertain or Insufficient Information**

The RMA requires the Council to evaluate the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.

The amendments have arisen as a result of the practical administration the Plan over at least ten years and as a consequence the issues are well known, and not uncertain.

## **CONCLUSION**

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Based on the assessment above, the overall conclusion is that the proposed plan change better achieves the objectives of the Marlborough Sounds Resource Management Plan than the existing Plan provisions. It is also concluded that the benefits of the proposed plan change outweigh the costs.

The Council considers that the process it has gone through has assisted in reaching a point where the proposed change to the Plan will ultimately achieve better outcomes for the community.

## **APPENDIX 1: PROPOSED PLAN CHANGE - SCHEDULE OF CHANGES**

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### **Schedule of Changes**

#### **1 FAMILY FLATS**

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 family member of a person residing in the principal residential unit on the property.*

#### **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. 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.~~

**2.7 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 ...

## 3 UTILITIES

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

Means a network utility operation undertaken by a requiring authority as defined in Section 166 of the Resource Management Act 1991

## 4 CHANGES TO SUBDIVISION CHAPTER (CHAPTER 27)

### 4.1 BUILDING PLATFORM REQUIREMENTS

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:

<sup>3</sup> 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.

### 4.2 CONTROLLED AND DISCRETIONARY ACTIVITY SUBDIVISION

#### (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).~~

#### (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.

#### (iii) Rule 27.2.3.2 (Chapter 27)

Amend the rule 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.

**(iv) Rule 27.2.3 (Chapter 27)**

Amend Rule 27.3.2 as follows:

| <b>Zone</b>   | <b>No. Lots served</b> | <b>Min Width (metres) see note 3 below</b> | <b>Min sealed width (metres)</b> | <b>Qualification</b>         |
|---|------------------------|--|----------------------------------|------------------------------|
| Sounds Residential <del>(also applies to Town Commercial)</del> | 1 & 2                  | 3  | NA                               | 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>                    |

**5 PERMITTED ACTIVITY MARINE FARMING ACTIVITIES (Chapter 35)**

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;**~~

**6 WINERIES**

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 from the subsequent production of wine, premises for the retail sale of wine, associated wine promotional material and associated dining facilities.

**7 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 ...

## 8 PROXIMITY OF DISCHARGES TO DRAINAGE CHANNELS

- (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.

- (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 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 36.1.7.6.1 b)

The disposal pit shall be located no less than 50 metres from any waterbody or bore 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 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.*

## **9 HAZARDS REGISTER**

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;~~

## 10 GENERAL RULES

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 Rural Zones or the Conservation Zone.