

Wairau - Awatere Resource Management Plan

Proposed Plan Change No. 61: 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 New Zealand Ltd (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 61 to the Wairau - Awatere Resource Management Plan (WARMP or the Plan).

The Plan Change was notified on 22 November 2012, with the submission period closing on 21 December 2012. Within this period, 81 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. Thirty 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 61 (PC61) is a Council initiated change to the WARMP made under Part 2 of the First Schedule of the RMA.

The purpose of Plan Change 61 is to introduce a number of minor additions and alterations to the provisions of the Wairau - Awatere Resource Management Plan in order to remove redundant provisions and provide greater clarity to a number of existing provisions. This improves the interpretation and implementation of the Plan.

2 Structure of this report

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

1. Policy on term of water permits to take and use water
2. Definition of "Family Flat"
3. Setbacks from water bodies for reasons other than avoiding flood hazard
4. Remove references to a "Hazards Register" as none exists
5. Controlled activity rule for development
6. Clarify that Utility provisions apply to "requiring authority"
7. Subdivision Chapter (Chapter 28)
8. Include rules for the damming of water
9. Subdivision in the Conservation Zone
10. Definition of wineries, distilleries and breweries in Rural Environments
11. Amendments to definition of "Home Occupation"
12. Include drainage channels in the rules requiring discharge setbacks from water bodies
13. Earthwork volume limit exemptions
14. Garden maintenance.

15. Zoning amendment – Rarangi

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.

In addition general matters are raised in three submissions and these are also assessed in the report.

Plan Change 61 was prepared in tandem with Plan Change 26 to the Marlborough Sounds 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 Plans, 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 (80/117)** identifies the submission number (80) and the submission point (117) 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:** Includes the Minutes and resolution of a pre-hearing meeting held in relation to Item 1- Policy on term of water permits to take and use water
- Appendix 3:** Sets out in full all changes proposed to the Plan arising from the proposed Plan Change and recommendations on the submissions.

3 General Submissions

Three general submissions were received as follows:

1. HJ Letbe (79/115) supports the plan changes but seeks clarification of what consists of a "hazard" rather than removal of the term altogether.

Assessment

This submission presumably relates to Item 4 in which the term "hazard register" is proposed to be deleted because there is no register in the Plan. Accordingly, in my view its deletion is appropriate. The removal does not affect the provisions relating to "hazards" in the Plan. These terms are generally self-explanatory in the context they are used and in my opinion no definition is required.

2. Marlborough Province of Federated Farmers Of NZ (59/88) suggests that given that the Plan review is underway the proposed changes are better dealt with as part of the review process and the Plan Change should be withdrawn.

Assessment

My understanding is that the Plan is unlikely to be notified until next year. In addition, any changes will be part of a larger process in respect of receiving submissions and holding hearings which is likely to be a lengthy period. It is therefore likely that the WARMP will have effect for some time. Given these potential delays I consider the plan change process is appropriate although some of the Section 42A recommendations on the items below suggest some items could be addressed as part of the review.

3. TrustPower Limited (19/22) requests that its amendments outlined in Table 1 of its submission be accepted.

Assessment

The suggested amendments in Table 1 are dealt with in the items referred to below.

Recommendation

1. That the submission of HJ Letbe (79/115) be **accepted in part**.
2. That the submission of Marlborough Province of Federated Farmers Of NZ (59/88) be **rejected**.
3. That the submission of TrustPower Limited (19/22) be **accepted or rejected** in accordance with the recommendation on the items referred to below.

4 Item 1: Policy on term of water permits to take and use water

Issue

Policy 6.3.1.1.3 of the existing Plan is as follows:

To increase certainty for water users by issuing water permits for 30 year terms, subject to reviews of the resource every 5 or 10 years to ensure ongoing sustainable management of the water resource. To issue discharge permits for a maximum period of 15 years for resources where the existing water quality is to be maintained and to issue discharge permits for a maximum period of 10 years in resources where the existing water quality requires enhancement.

Policy 6.3.1.1.3 refers to the issuing of water permits for a term of 30 years. In practice, consents issued by the Council have not been for this extended period, as a consequence of demand being experienced in

areas/catchments where it was not originally anticipated, and water resources approaching full allocation (or in some areas exceeding it). Instead, the majority of water permits issued since the WARMP was notified is for terms of between 10 and 20 years. Case law has also determined that reviews of consent conditions pursuant to section 128 of the Act cannot fundamentally affect the allocation of water made through the granting of the water permit.

In addition, there are also water resources for which a Sustainable Flow Regime (SFR) has not been established. In these circumstances, there is uncertainty over the nature and severity of adverse effects due to the limited hydrological information and/or knowledge of in-stream values.

Taking these matters into account and in dealing with the effects of full and over-allocation of water resources (as required by the National Policy Statement: Freshwater Management) the Council determined that a term considerably less than the maximum provided for in Policy 6.3.1.1.3 was appropriate. Accordingly it is proposed to refer to a term of 10 years in the policy as follows.

Proposed Changes

In order to address this issue, Plan Change 61 proposes the following amendments:

- (i) Amend Policy 6.3.1.1.3 as follows:

~~To increase certainty for water users by issuing water permits for 30 year terms, subject to reviews of the resource every 5 or 10 years to ensure ongoing sustainable management of the water resource. To issue discharge permits for a maximum period of 15 years for resources where the existing water quality is to be maintained and to issue discharge permits for a maximum period of 10 years in resources where the existing water quality requires enhancement.~~

To issue water permits to take and use water for a period of 10 years where water resources are either fully allocated or over-allocated relative to the allocation limits set in this Plan or where water is to be taken from a resource for which no SFR has been established in the Plan.

- (ii) Amend the explanation to the policies under Section 6.3.1 as follows:

~~Domestic water extraction up to 10 m³ per day is exempt from requirements for metering or water permits. For non-domestic extraction the term of water permits will be 10 years where the cumulative volume of water allocated through individual water permits has reached the Class A and (where there is a Class B limit set) Class B allocation limits. This will allow the adverse effects of abstraction in a situation of full or over-allocation to be addressed in a timely fashion. A 10 year term is also appropriate where water is to be taken from a water resource for which no SFR has been established due to the uncertainty over the cumulative effects of water extraction in these circumstances, be issued for 30 year terms for all new and renewed water permits, but will be subject to. Resource reviews will be undertaken every 5 or 10 years depending on location, to ensure ongoing sustainable and equitable management of the resource. The interval of resource review is related to the level of understanding for the particular resource. The longer the interval between reviews for example 10 years, the greater the understanding of the resource and less potential there is for adverse effects.~~

Submissions

Seventeen submissions were received on this item in which the majority opposes the amendments. The main reasons for opposing the provisions was that the proposed term did not provide enough certainty for investment in infrastructure; any change to the policy should be as part of the Plan review rather than a piecemeal approach; and longer terms are appropriate having regard to the provisions of the RMA and the third report of the Land and Water Forum and are appropriate for rivers with SFRs.

Assessment

Given the issues raised the Council convened a pre hearing meeting to consider the proposed Plan Change on 17 May 2013. The minutes and outcome of the pre-hearing Meeting are included as Appendix 2 to this report. In

summary , participants were briefed and came to understand that it is very difficult for the Council to address full and over allocation of water resources (as required by the NPSFW) when consents are issued for long terms.

Agreement was reached at the pre-hearing meeting that a further amendment to the explanation to the Policies under section 6.3.1.1.3 is appropriate given that the proposed change is intended to be a transitional approach until a full review of the WARMP is undertaken.

In my view this is an appropriate amendment as it provides a more full explanation for Council's policy.

In these circumstances it is recommended the outcome of the prehearing meeting is implemented by inserting additional wording to the Explanation.

Recommendation

1. That the submissions listed in Appendix 1 be **accepted in part**.
2. That Policy 6.3.1.1.3 and the explanation to the Policies under Section 6.3.1 be amended as follows:

Policy 6.3.1.1.3

~~To increase certainty for water users by issuing water permits for 30 year terms, subject to reviews of the resource every 5 or 10 years to ensure ongoing sustainable management of the water resource.~~

To issue water permits to take and use water for a period of 10 years where water resources are either fully allocated or or over allocated relative to the allocation limits set in this Plan or where water is to be taken from a resource for which no SFR has been established in the Plan.

Explanation to Policies:

~~Domestic water extraction up to 10m³ per day is exempt from requirements for metering or water permits. For non-domestic extraction the term of water permits will be 10 years where the cumulative volume of water allocated through individual water permits has reached the Class A and (where there is a Class B limit set) Class B allocation limits. This will allow the adverse effects of abstraction in a situation of full or over-allocation to be addressed in a timely fashion. A 10 year term is also appropriate where water is to be taken from a water resource for which no SFR has been established due to the uncertainty over the cumulative effects of water extraction in these circumstances be issued for 30 year terms for all new and renewed water permits, but will be subject to.~~

The full and over allocation of water resources are issues being addressed through the review of the Wairau/Awatere Resource management Plan. A water allocation framework that directs how these issues are to be resolved will be notified before December 2014, as required by the National Policy Statement: Freshwater Management 2011. It is likely that the implementation of this framework will remove the need to limit duration in the manner set out in Policy 6.3.1.1.3.

Resource reviews will be undertaken every 5 or 10 years depending on location, to ensure ongoing sustainable and equitable management of the resource. The interval of resource review is related to the level of understanding for the particular resource. The longer the interval between reviews for example 10 years, the greater the understanding of the resource and less potential there is for adverse effects.

5 Item 2 - 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 61 proposes 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

Eleven submissions were received in relation to this amendment. The submission of K Suleiman (17/131) opposes the amendment but offered no reasons in support of this position. R Evans (77/110) considers that the size limit was arbitrary and should be deleted, and J Falloon (1/1) considers the Council should only restrict the size of a Family Flat.

F Patchett (65/98) and K & L Morgan (63/96) supports 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 (4/6) 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.

Three submitters considered that the maximum area proposed for a Family Flat was too restrictive, and requested various relief, as follows:

- Maximum size of 150m² anywhere on a property that is visible from the main dwelling (A Smith, 2/2)
- A limit of 100m² for a new building, and no limit on a relocatable building or an existing building (with a building permit) that existed prior to the new rule (Beavon Investments, 58/87).
- Modify the wording to allow a larger Family Flat where a tile is over 4ha, provided the Family Flat is at least 10% less in floor size than the principal residential unit on the property (B Wadsworth, 3/3).

Kapiti Views Trust (33/41) and J & A Marris (34/43) submitted that Family Flats should provide for a husband/wife situation plus a dependent child.

Assessment

I consider 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 be the undermining of the basic tenet of one dwelling per site and a reduction in amenity as it relates to density and open space. For example Objective 4 and Policies 4.6 on pages 11-7/8 of the WARMP clearly set 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 (65/98), K & L Morgan (63/96) be **accepted in part** and the submissions of K Suleiman (17/131), R Evans (77/110), J Falloon (1/1), NZ Institute of Surveyors (4/6), (A Smith, 2/2), Beavon Investments, (58/87), B Wadsworth (3/3), Kapiti Views Trust (33/41) and J & A Marris (34/43) 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.

6 Item 3 – 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.

In addition while "*natural hazard areas*" are not specifically identified in the Plan "*flood hazard*" areas are referred to in the Plan (eg Flood Hazard Overlay). To clarify this situation it is proposed to replace the former term with the latter term in respect of a number of rules.

Proposed Changes

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

- (i) Replace the heading "Hazards" with "*Flood Protection/Riparian Management*" in Rules 31.1.6, 32.1.5, 33.1.5, 36.1.5, 37.1.7 and 38.1.5.
- (ii) Delete the heading "*Flood Protection /Riparian Management*" from Rules 31.1.6.1, 32.1.5.1, 33.1.5.1, 36.1.5.1, 37.1.7.1 and 38.1.5.1
- (iii) Replace Rules 31.1.6.2, 32.1.5.2, 33.1.5.2, 36.1.5.2, 37.1.7.2, and 38.1.5.1 wording with "*No building activity or earthworks shall take place as a permitted activity within any area identified as a flood hazard by this Plan*".

Submissions

Royal Forest and Bird Protection Society (80/117) support the proposed change.

J & A Marris (34/52) and Kapiti Views Trust (33/42) consider that "or earthworks" should be removed from the amended Rule in (iii) above. R Evans (77/111) also considers that including earthworks in the Rule increases development costs and be limiting to owners.

Assessment

The opposing submissions generally relate to (iii) above and the reference to "*earthworks*". The changes to the existing wording are as follows:

"No building activity or earthworks shall take place as a permitted activity within ~~or effect upon any natural hazard~~ any area identified as a flood hazard by this Plan.

As is apparent from the above the word "*earthworks*" is already contained in the heading to the rule and so nothing will change in respect of this activity. The submissions seek amendments that go beyond the scope of the Plan Change, which only inserts a correct reference to a flood hazard and to make the rule more certain. Accordingly the submissions should be rejected.

Recommendation

1. That the submissions of J & A Marris (34/52), Kapiti Views Trust (33/42) and R Evans (77/111) be **rejected** and the submission of Royal Forest and Bird Protection Society (80/117) be **accepted**.
2. That the Plan be amended as follows:

- (i) Replace the heading "Hazards" with "Flood Protection/Riparian Management" in Rules 31.1.6, 32.1.5, 33.1.5, 36.1.5, 37.1.7 and 38.1.5.
- (ii) Delete the heading "Flood Protection /Riparian Management" from Rules 31.1.6.1, 32.1.5.1, 33.1.5.1, 36.1.5.1, 37.1.7.1 and 38.1.5.1
- (iii) Replace Rules 31.1.6.2, 32.1.5.2, 33.1.5.2, 36.1.5.2, 37.1.7.2, and 38.1.5.1 with "No building activity or earthworks shall take place as a permitted activity within any area identified as a flood hazard by this Plan."

7 Item 4 – 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 61 proposes to remove the advisory note for the hazards register from a number of rules throughout the Plan.

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 as follows:
 - (i) Remove the advisory note for the hazards register from the following plan provisions:
 - 31.1.6.2
 - 32.1.5.2
 - 33.1.5.2
 - 36.1.5.2
 - 37.1.7.2
 - 38.1.7.2

8 Item 5 - Controlled activity rule for development

Issue

Each Zone in the Plan contains a controlled activity rule that gives the Council the ability to impose development contributions as a condition of a resource consent. However, development contributions are now imposed under the Local Government Act 2002 and the existing references in the plan are therefore redundant.

Proposed Changes

In order to remove the unnecessary references, Plan Change 61 proposes to delete a number of rules and associated standards from the Plan, as listed in the section 32 report.

Submissions

The submission of the Marlborough District Council (25/31) identifies an error in the public notification in which some parts of the rules, not relating to development contributions, are unintentionally deleted. Accordingly these parts of the rules should be retained.

No submissions were received on the remaining changes proposed as part of this item.

Assessment

The relief sought by the submitter is appropriate as it retains the parts of the rules unrelated to the development contributions issue.

Recommendation

- 1 That the submission by Marlborough District Council (25/31) be **accepted**.
- 2 That the Plan be amended in as set out in Appendix 3 in respect of Item 5.

9 Item 6 – Clarify that utility provisions apply to “Requiring Authority”

Issue

Utilities are presently provided for in Section 27.5 of the Plan. The Council identifies 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 28.1.1 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 61 introduces the following amendments relating to Utilities.

- (i) Insert the following definition of “Utility” into Chapter 26 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

Forty nine submissions were received on this proposed change, most of which relate to the “amateur radio” service. The remaining submissions generally address other matters and are considered first.

J Reddan (20/26) opposes the proposed change as it provides for anti-competitive behaviour. G Buck (74/107) made a similar point, noting that the requirement for a utility to be carried out by a requiring authority may have unintended results and not achieve Council’s aims. The submitter requests the Plan change be abandoned as there appears to be no particular urgency to change the provisions, given they have been in place for many years with few problems.

J & A Marris (34/53) and Kapiti Views Trust (33/44) consider the proposed change is ambiguous as it is unclear whether a privately run waste water and effluent treatment/irrigation scheme is included.

TrustPower Ltd (19/24) opposes the proposed change as not all network utility operators are requiring authorities. and suggests that the Plan should provide for and seek to manage all utilities and infrastructure in a consistent manner. It is submitted the proposed definition is rejected or that the chapter is expanded to provide for infrastructure as defined in the RMA.

In respect of the submissions relating to “amateur radio” the submission of the NZ Association of Radio Transmitters (64/97) 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

J Elvy (28/126) while supporting the proposed change as it removes any doubt for legitimate utility providers, seeks amendments to ensure the Plan provides for other groups such as the amateur radio operators, and other activities that use antennas and masts/poles as part of their activity. Specifically, the submitter request the Plan be amended as follows:

- The erection of any antenna should be a permitted activity providing the point of attachment for that antenna is no greater than 3 metres above the roofline.
- For antennas within the urban environment requiring a height of greater than 3 metres above the point of attachment a consent is necessary
- For legitimate radio servicing businesses operating in the Urban Commercial zone a maximum permitted mast height of 5 m be allowed
- A consent be required for wooden poles (phone, power types). Masts and towers situated within an urban environment regardless of height and location (to include the respective mounted antennas)
- No restrictions are proposed for antennas/systems within the rural environment.

The remaining submissions in respect of "amateur radio" are of an almost identical that seek the following relief:

- That the amateur radio service be included in the utility provisions, along with the requiring authorities, with regard to antenna and their supporting structures.
- Antenna and their supporting structures for the purpose of amateur radio be regarded under the utilities provisions.
- Include the amateur radio service along with the 'requiring authority' so that the existing requirements can continue to apply to Amateur Radio antenna structures.

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. 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.

Rule 27.5 lists a number of permitted utilities although subject to a number of conditions limiting their location and scale although no distinction is made between private or public operators, notwithstanding the community emphasis in Chapter 20.0 of the Plan.

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*

TrustPower Ltd submits that not all network utility operators are requiring authorities and therefore would not be able to utilise the utility provisions. I agree that given the above definitions some network utility operators do not have requiring authority status and could be excluded from undertaking their functions under this proposal which could adversely affect their operations. It appears there is sufficient scope in the TrustPower Ltd submission and others to consider this as an option and in my view it has merit in terms of the plan change given it retains a community or public focus.

The suggestion of TrustPower Ltd to expand the chapter to infrastructure contains few details but it is noted the definition of infrastructure includes major facilities such as airports and marine ports. This could be a matter that is considered as part of the review of the WARMP but is not appropriate as part of this process given its lack of specificity.

The submissions in respect of "amateur radio" emphasise the positive benefits for the community of such a service and suggest a number of ways they can be accommodated with various suggestions in respect of the rules. Some of the submissions indicate that the issue has been debated in other districts in New Zealand and suggests amendments to the Plan based on these amendments. On the other hand, and 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:

- 27.5.1.2.3 Maximum height of 25m
- 27.5.1.2.4 No aerial or support structure to exceed the top of a building by 3m

In addition potentially facilities are also subject to Rules 27.5.1.2.7 and 27.5.1.2.8 which require buildings over 2m in height to be set back from the road and internal boundary by a distance of not less than half their height. The definition of "building" in the WARMP has the same meaning as a "building" in Section 3 of the Building Act 1991.

I also note the existing definition of height in the Plan excludes "antenna" which in turn is defined as "that part of a radio communication facility or telecommunication facility used for transmission or reception including the antenna mountings but not any supporting mast or similar structure." Presumably this allows radio aerials and the like but not lattice towers or similar.

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

A number of the suggestions put forward, propose to provide for "amateur radio" by the inclusion of detailed rules. These are considered to be outside the scope of the Plan Change given that the change relates to utilities and requiring authorities. This issue is more appropriately considered as part of the district plan review.

For the reasons referred to above it is considered that the definition should be amended to "network utility operators". Potentially "amateur radio" operators could meet the definition of a network utility operator.

Recommendation

1. That the submissions of J & A Marris (34/53), Kapiti Views Trust (33/44), TrustPower Ltd (19/24), J Elvy (28/126), NZ Association of Radio Transmitters (64/97), J Reddan (20/26), G Buck (74/107 and those listed in Appendix 1 be **accepted in part**.

2. That the WARMP is amended as follows:

Insert the following definition of "Utility" into Chapter 26 of the Plan:

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

10 Item 7 – Subdivision Chapter (Chapter 28)

10.1 Item 7.1 Reconcile subdivision standards for Township Residential Zone (Renwick) with site density standards

Issue

It is identified that the subdivision standards and the site density standards for the Township Residential Zone (Renwick) are inconsistent. The effect of this difference is that landowners are unable to give effect to the controlled activity subdivision rule that enables the creation of additional lots capable of accommodating a dwelling as a permitted activity.

Proposed Changes

Plan Change 61 amends the threshold lot area for the Township Residential Zone (Renwick) in order to ensure that the standards are consistent in the Plan for this zone. The amended table is set out in the Section 32 report.

Submissions

K Suleiman (17/133) opposes the proposed change although no reasons are given.

Assessment

The proposed change corrects an incorrect reference in the Plan and will assist in the better administration of the Township Residential Zone.

Recommendation

1. That the submission of K Suleiman (17/133) be **rejected**.
2. That the Plan be amended by changing the threshold Lot Area for Township Residential (Renwick) in Table 28.2.2, as follows:

Zone	Allotment Type W = with Sewerage Reticulation WO = Without	Environmental Assessment Threshold Building Platform Shape Factor ² see note below	Environmental Assessment Threshold Building Platform Shape Factor ² see note below	Environmental Assessment Threshold Frontage Metres ^{3,4} see note below	Qualification
Township Residential (Renwick)	Front W	400 450	15 metre diameter circle	15	
	Front WO	800 1000	15 metre diameter circle	15	
	Rear W	500 450	15 metre diameter circle	NA	Access requirements apply, refer 28.2.3
	Rear WO	1000	15 metre diameter circle	NA	Access requirements apply, refer 28.2.3

10.2 Item 7.2 Clarify that building platforms must be free from easements and yard setbacks

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 Plan Change 61 introduces a change to the Plan to ensure that a building platform does not intrude into yard setbacks and is not located over existing easements by inserting the following note to the end of the existing note 2 to Tables 28.2.2 and 28.3.2:

- ² *The minimum building platform shape factors may be applied anywhere within the proposed allotment. The minimum building platform must be free of any easement or any building setback and depth requirement required by zone rules.*

Submissions

J & A Marris (34/54) and Kapiti Views Trust (33/45) oppose the amendment on the basis that it will reduce the flexibility that is currently available for infill and 'tight' situations. A similar submission was received from R Evans (77/112), who requests that the reference to 'building setbacks' be removed to provide greater flexibility.

The NZ Institute of Surveyors (NZIS) (4/7) considers that the proposed rule is unworkable because building setbacks are not a fixed distance from the boundary in all instances as in the residential zones they are determined by orientation of the lot and recession planes. The NZIS also notes that the effect of the amendment will be to increase the minimum width of new lots by approximately 5m to accommodate the recession planes. In addition this could make it difficult to subdivide existing lots because of the requirement for the increased width.

Assessment

The WARMP requires a circle of various diameters (13-15m) to be accommodated in each lot in order that it can be demonstrated a suitable building platform of reasonable dimensions is available on each site. It is also noted that the WARMP generally also requires a minimum frontage of 14/15m for front lots in residential zones which is generally consistent with the diameters of the circles.

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 the identification of a building platform, a dwelling can be built close to a boundary whereas 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 J & A Marris (34/54), Kapiti Views Trust (33/45), NZ Institute of Surveyors (4/7) and R Evans (77/112) be **accepted in part**.
2. That the Plan be amended by inserting the following note to the end of the existing note 2 to Tables 28.2.2 and 28.3.2:

²The minimum building platform shape factors may be applied anywhere within the proposed allotment. The minimum building platform must be free of any easement or any building setback and depth requirement 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.

10.3 Item 7.3 Remove references to section 321 of the Local Government Act

Issue

Note 3 in each of sections 28.2.2 and 28.3.2 refer to section 321 of the Local Government Act which has been repealed. Accordingly Plan Change 61 proposes to remove these references.

Submissions

No submissions were received on this change.

Assessment

Given the absence of submissions the item is recommended to be accepted and will assist in the better administration of the Plan.

Recommendation

1. That the Plan be amended by the following:
 - (i) *Delete Note 3 from Rule 28.2.2 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 3 from Rule 28.3.2 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~~*

10.4 Item 7.4 Remove references to compliance with Assessment Matters from the rules relating to controlled and discretionary subdivision activities

Issue

The existing Rules relating to controlled and discretionary subdivision activities (Rules 28.2 and 28.3 respectively) 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 61 proposes the following changes to the rules relating to controlled and discretionary subdivision activities, as follows;

(i) Controlled Subdivision Activity

Amend Rule 28.2 (Controlled Activities) as follows

If subdivision proposals for these zones meet all of the following standards ~~and assessment criteria~~ (Rules 28.2.2, 28.2.2, ~~28.2.4~~); the Council will reserve control over the matters prescribed in Rule 28.5.

(iii) Discretionary Subdivision Activity

Amend Rule 28.3 (Subdivision) as follows:

Generally, subdivision in these zones is a discretionary activity if the proposal meets all of the standards specified. ~~Applications will generally be considered in the context of the assessment criteria specified in Rule 28.3.5.~~ There are two exceptions to these general requirements, both involve a subdivision component with Limited Discretionary status. They involve Rule 28.3.3, "Standards for Access to Rear Lots", and Rule 28.3.4, "Limits to the Council's Discretion, which includes matters that relate to "State Highway", in Rule 28.3.4.2.

Submissions

The submission of the Marlborough District Council (25/32) identifies that there is an error in the public notice. The rule that should be referenced in Rule 28.2 (Controlled Activities) is Rule 28.2.5, and not Rule 28.5.

Assessment

The change sought by the submitter is appropriate as it identifies the correct rule. There is also another small typographical error as Rule 28.2.2 was referenced twice as opposed to listing Rules 28.2.2 and 28.2.3.

Recommendation:

1. That the submission of Marlborough District Council (25/32) be **accepted**.

2. Amend the Plan by amending Rule 28.2 as follows:

If subdivision proposals for these zones meet all of the following standards ~~and assessment criteria~~ (Rules, 28.2.2, 28.2.3~~2~~, ~~28.2.4~~); the Council will reserve control over the matters prescribed in Rule 28.2.5

3. Amend the Plan by amending Rule 28.3 (Subdivision) as follows:

Generally, subdivision in these zones is a discretionary activity if the proposal meets all of the standards specified. ~~Applications will generally be considered in the context of the assessment criteria specified in Rule 28.3.5.~~ There are two exceptions to these general requirements, both involve a subdivision component with Limited Discretionary status. They involve Rule 28.3.3, "Standards for Access to Rear Lots", and Rule 28.3.4, "Limits to the Council's Discretion, which includes matters that relate to "State Highway", in Rule 28.3.4.2.

11 Item 8 – Include rules for the damming of water

Issue

The Plan presently has rules that cover the construction of a dam as a land use activity. However, the associated damming of water is not presently provided for in the rules. In order to address this issue, the Council propose to introduce rules to permit the damming of water in order to remove any unnecessary consenting requirements.

Proposed Changes

Plan Change 61 proposes the following amendments to the Plan:

- (i) Add damming of water to the title of Rule 27.1.6 as follows:

Rules for the Construction of a Dam and the Associated Damming of Water

- (ii) Amend the text that follows Rule 27.1.6, as follows:

A consent for the construction of any dam, on-stream or off-stream, does not cover the taking, use, ~~damming~~ or diversion of water controlled under Section 14 of the Act. A separate water permit will be required for the taking, use, or diversion ~~or damming~~ of water associated with a dam and the damming of water.

- (iii) Amend Rule 27.1.6.1 to include the damming of water, as follows:

Unless expressly limited elsewhere, the construction or alteration of a small dam, and the associated damming of water, ~~is a~~ Permitted Activity ~~ies~~ where ~~it~~ they meets the following conditions.

- (iv) Amend Rule 27.1.6.2 to include the damming of water, as follows:

The construction or alteration of any dam, and the associated damming of water, which cannot comply with the conditions for a Permitted Activity.

- (v) Amend Rule 27.1.6.3 to include the damming of water, as follows:

The construction or alteration of a dam on a water resource listed below, including the associated damming of water:

- (vi) Amend Rule 27.1.6.4 to include the damming of water, as follows:

The construction or alteration of a dam on a water resource listed below, including the associated damming of water:

Submissions

The submissions of Blind River Irrigation Ltd (61/92), J & A Marris (34/55) and Kapiti Views Trust (33/46) support the proposed amendments. The submission of the Royal Forest and Bird Protection Society (80/118) takes a neutral stance but see it as a logical step provided the effects are considered.

TrustPower Ltd (19/25) support the proposed changes but consider that an amendment is needed to Rule 27.1.6 to correct the implication that a separate water permit would be required for the damming of water which is at odds with the rest of the changes proposed, as identified in **bold** text as follows:

*A consent for the construction of any dam **and the associated damming of water**, on stream or off-stream does not cover the taking, use, ~~damming~~ or diversion of water controlled under Section 14 of the Act. A separate water permit will be required for the taking, use, diversion ~~or damming~~ of water associated with a dam and the damming of water.*

Assessment

The changes introduced into the Plan provide for the construction of dams and the associated damming of water as one process. Given the overlap and similarities between the two activities I consider this is appropriate and removes doubt that may exist.

In terms of the submission of TrustPower Ltd relating to Rule 27.1.6 it appears the suggested amendment is not required as the first part of the rule applies to the construction of a dam under Sections 9 and 13 of the Act. However the rule can be amended to clarify this matter.

In terms of the submission from the Royal Forest and Bird Protection Society conditions are still required to be complied with for permitted activities and/or it defaults to a resource consent. Resource consent is also required for the use and take of water.

Recommendation

1. That the submissions of the Royal Forest and Bird Protection Society (80/118), Blind River Irrigation Ltd (61/92), J & A Marris (34/55) and Kapiti Views Trust (33/46) be **accepted** and the submission of TrustPower (19/25) be **part accepted**.

2. Amend the Plan as follows:

(i) Add damming of water to the title of Rule 27.1.6 as follows

Rules for the Construction of a Dam and the Associated Damming of Water

(ii) Amend the text that follows Rule 27.1.6, as follows:

A consent for the construction of any dam on-stream or off-stream, under Sections 9 or 13 of the RMA does not cover the taking, use, ~~damming~~ or diversion of water controlled under Section 14 of the Act. A separate water permit will be required for the taking, use, or ~~diversion or damming~~ of water associated with a dam and the damming of water.

(iii) Amend Rule 27.1.6.1 to include the damming of water, as follows:

Unless expressly limited elsewhere, the construction or alteration of a small dam, and the associated damming of water, ~~is a~~ Permitted Activity where ~~it~~ they meets the following conditions.

(iv) Amend Rule 27.1.6.2 to include the damming of water, as follows:

The construction or alteration of any dam, and the associated damming of water, which cannot comply with the conditions for a Permitted Activity.

(v) Amend Rule 27.1.6.3 to include the damming of water, as follows:

The construction or alteration of a dam on a water resource listed below, including the associated damming of water:

(vi) Amend Rule 27.1.6.4 to include the damming of water, as follows:

The construction or alteration of a dam on a water resource listed below, including the associated damming of water:

12 Item 9 – Subdivision in the Conservation Zone

Issue

In the Conservation Zone of the Plan, subdivision is included in the list of discretionary activities under Rule 41.2.1. The inclusion of this is at variance with Subdivision Rule 28.4.2, which states that subdivision in the Conservation Zone is a non-complying activity. Removal of reference to subdivision in the Conservation Zone from Rule 41.2.1 will ensure the Plan is not in conflict.

Proposed Change

Plan Change 61 proposed the following change to Rule 41.2.1:

- (i) Delete "subdivision" from the list of discretionary activities in Rule 41.2.1 for the Conservation Zone, as follows:
- ~~Subdivision~~

Submissions

The submission of the Royal Forest and Bird Protection Society (80/119) supports the proposed change.

Assessment

The amendment will assist in the better administration of the Plan by removing an inconsistency.

Recommendation

1. That the submission of the **Royal Forest and Bird Protection Society (80/119) be accepted.**
2. That the Plan be amended by deleting "subdivision" from the list of discretionary activities in Rule 41.2.1 for the Conservation Zone.

13 Item 10– Wineries, distilleries and breweries in Rural Environments

Issue

Rule 30.4.1 of the Plan provides for "wineries, distilleries and breweries" as discretionary activities. Currently, 'Wineries' are defined as:

"premises for the retail sale of wine, associated wine promotional material and associated dining facilities".

This definition does not provide for wine making or production activities which can reasonably be expected to be part of a winery and accordingly it is proposed to amend the definition of "Wineries."

Proposed Changes

Delete the existing definition of 'Wineries' from Chapter 26 (Definitions) and replace it with the following definition:

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

B Wadsworth (3/4) considers that the Plan should distinguish between a processing and/or production facility and a retail and /or dining facility, and sought that separate definition be included for "Beverage Processing and/or Production facilities in rural environments", and that specific assessment criteria be added for such facilities in the Plan. The submission also sought that the definition be amended to allow for the production of non-alcoholic beverages.

Clintondale Trust – Whyte Trustee Company Limited (62/124) requests that the definition be replaced with

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

Constellation Brands Ltd (35/61) considered that the s32 analysis of the change is inadequate and that the definition is insufficiently broad, noting that the definition should also include the following

- 1 *Storage (including in tanks and barrels), ageing, blending, bottling, packaging and distribution of wine/fruit juice.*
- 2 *Storage and disposal of waste water, and the disposal of marc.*
- 3 *Transportation of bulk juice/wine both to and from the winery.*
- 4 *Associated warehousing, office space, laboratory and associated administration activities.*

Delegat's Wine Estate (53/82) considered that the definition as proposed does not provide for all aspects of how wineries function, and requested the definition be amended as follows:

A facility for the receiving, processing, production, storage and despatch of grapes, grape juice and finished wine. The facility may or may not also include premises for the bottling and packaging and despatch of wine, public tasting, retail sale of wine, associated wine promotion material and associated dining facilities.

Guernsey Road Residents Association Inc (68/101) opposes the change to the definition as it should not be done without considering the effects of industrial activities in the rural zone. If the definition is retained, then it should be amended along the following lines:

- Limit the size and scale of facilities to ensure that conflict in the rural environment between industrial activities and other rural activities are minimised, and to ensure their scale is consistent with the receiving environment and that adverse effects are avoided .
- Require industrial activities to locate in the industry zone where appropriate services can be provided.
- Exclude bottling and consequential activities, and processing of juice previously processed or crushed off-site from the definition.

J & A Marris (34/56) and Kapiti Views Trust (33/47) considers the definition should be reworded to more clearly reflect the activities that are able to take place in a winery, and should include the ability to bottle and package the product ready for the market.

Marlborough District Council (25/33) 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.

WilkesRM Solutions Ltd (78/114) considered that a revised definition is necessary as the definition proposed does not adequately cover the processes that occur during wine production and that the definition should be worded as follows, including a minor correction to note that it should read "juice for the subsequent production of wine, not from the production of wine:

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.

Marlborough Winegrowers Association Inc (81/121) considers that the definition should be widened to identify that a winery is a facility for:

- The receipt of grapes and other products associated with the production of wine;
- The processing of grapes or other fruit juice for the production of wine;
- The blending and storing of wine; and
- The dispatch of wine.

The submitter also requests that the definition also provide for the consumer tasting of wine(s), premises for the retail sale of wine, associated wine promotional activities and associated dining facilities.

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 WARMP. 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 submissions 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. In this regard the definition proposed in the Plan Change is a good starting point, and the refinement proposed in the submission of WilkesRM Solutions is considered sufficient to capture the key elements of wine making. There is nothing in the definition or the rules to identify that the grapes being processed must be grown on the site, and similarly it is not considered necessary to specify that the activity of making wine includes the delivery of grapes to the site or the subsequent transport of wine from the site.

Recommendation

1. That the submissions of WilkesRM Solutions Ltd (78/114) and Marlborough District Council (25/33) be **accepted**; the submissions of Clintondale Trust – Whyte Trustee Company Ltd (62/124), J & A Marris (34/56) and Kapiti Views Trust (33/47) be **accepted in part**; and the submissions of B Wadsworth (3/4), Constellation Brands (35/61), Delegat's Wine Estate Ltd (53/82) and Guernsey Road Residents Association (68/101) be **rejected**.
2. That the Plan be amended by deleting the existing definition of "Wineries" in section 26 of the Plan and replacing it as follows:

~~WINERIES - premises for the retail sale of wine, associated wine promotional material and associated dining facilities".~~

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.~~

14 Item 11 – 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, other than escort agencies and massage parlours, 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 11.2.1 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 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 (i.e. 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 current definition of Home Occupation also excludes massage parlours and escort agencies and the Council are seeking to amend the definition to exclude brothels as well given these activities are considered to be of a similar nature.

Proposed Changes

Plan Change 61 proposes the following amendments to the definition of “Home Occupation” in order to address the above issues.

- (i) Amend the definition of “home occupation” so that it excludes brothels and it can only be undertaken by a member of the household plus one employee, 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 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.

Submissions

B Wadsworth (3/5) considers that if the intention of the change is to only allow single member of the household to work in a home occupation, then it is restrictive and unreasonable. Additional employees will not necessarily generate a level of amenity out of keeping with the character and amenity of residential neighbourhoods. The definition should be amended by including the following statement, and deleting the additional paragraph restricting the employment of an additional person:

Performed only by members of the household residing in the dwelling unit or accessory building in which it is carried out.

J & A Marris (34/57) and Kapiti Views Trust (33/48) consider the definition too restrictive as it does not allow a husband and wife to work from home in separate businesses. The definition should be reworded as follows:

- (a) Performed only by a member or members 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 persons undertaking the home occupation is are entitled to employ one additional person that does not normally reside in the dwelling unit or accessory building.

A similar submission was received from R Evans (77/128) who considers the single person limit restrictive as it limits the growth of business.

S Jerrett (66/99) opposes the exclusion of brothels and the current exclusion of escort agencies as discriminating against personal services. The exclusion of motor vehicle repairs is also considered vague. The submitter requests that brothels and escort agencies be removed from the definition, and that the definition include various controls, akin to performance standards, that would govern the operation of brothels or escort agencies to operate as a home occupation. Changes are also requested that remove restrictions on motor vehicle repairs and associated activities.

Assessment

In my view the balance of the Plan Change, which is to allow some limited commercial activity (including an additional person not residing on site) in residential zones without detracting from the amenity is appropriate. The amended definition will assist in meeting Objective 3 and associated policies on pages 11-6/7 of the WARMP relating to the establishment of a variety of activities in residential zones.

Many of the submissions query whether more than one household member can undertake a home occupation in the premises. In my view the proposed definition does not necessarily preclude more than one home occupation

being undertaken, provided for example, there are two separate businesses operated by two family members. This is likely to be an unusual situation and in my view the proposed definition retains an appropriate balance.

I consider the exclusion of brothels is generally consistent with the existing provisions relating to these types of activities and could detract from the amenities of the neighbourhood.

The submission of S Jerrett (66/99) requests amendments in respect of brothels and escort agencies and motor vehicle repairs. In respect of brothels and escort agencies the proposed changes go beyond the scope of the Plan Change, by deleting escort agencies and massage parlours and seeking the inclusion of performance standards into the definition that would apply to all home occupations. In respect of motor vehicle repairs, the Plan Change did not relate to motor vehicle repairs and as such the submission is also not considered to be on the Plan Change.

Recommendation

1 That the submissions of B Wadsworth (3/5), J & A Marris (34/57), Kapiti Views Trust (33/48), R Evans (77/128) and S Jerrett (66/99) 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 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 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.

15 **Item 12 – Include drainage channels in the rules requiring discharge setbacks from water bodies**

Issue

Existing rules in various zones in the WARMP require that discharges of contaminants are set back from water bodies. 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.

However, the setbacks do not cover drainage channels. Council notes that drainage channels carry water that often flows into waterbodies which could result in their contamination. Accordingly Council considers it appropriate potential to add "drainage channel" to existing setback rules in five zones.

Drainage channels are defined 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.*

Proposed Changes

The Plan Change proposes to insert "*or drainage channel*" to the end of various rules that require a setback from surface water bodies for the discharge of contaminants onto land.

Submissions

K Suleiman (17/132) opposes the provision but does not provide any reasons for the opposition. J and A Marris (34/58) and Kapiti Views Trust (33/49) support the amendment provided it does not include stormwater. Marlborough Province of Federated Farmers (59/90) notes that many drainage channels are ephemeral; subsurface drains may not be easy to locate; some of the activities use drainage channels to divert stormwater; and some drainage channels discharge to an open paddock rather than a waterway. The submitter suggests the plan change be rejected or changes made to the definition of "drainage channel" to take account of the above.

Royal Forest and Bird Protection Society (80/120) supports the proposed change.

Assessment

The proposed amendments should have a positive effect by improving the water quality in waterbodies by reducing contaminants entering drains. It is noted the rule will apply to stormwater given the definition of "drainage channel".

On the other hand, the submissions raise a number of matters in respect of the practicality of the rules as it applies to the operation of a farm. In respect of this I consider that "drainage channel" does not include subsurface drains as it refers to a "watercourse" which implies an open channel.

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.

Changes are not favoured to the definition of "drainage channel" as it is in place for a number of provisions in the Plan.

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) J & A Marris (34/58), Kapiti Views Trust (33/49), the Marlborough Province of Federated Farmers (59/90) and the Royal Forest and Bird Protection Society (80/120) be **accepted in part**.

2. That the Plan be amended by adding "or drainage channel" at the end of each of the following conditions:

30.1.8.2.4g)

30.1.8.2.5e)

30.1.8.4.1

30.1.8.9.4

30.1.8.10.7

~~30.1.8.11.3~~

30.2.5.1.2

30.4.3.4.1

31.1.3.2.4g)

31.1.3.2.4.2e)

33.1.7.2.4g)

33.1.7.2.5e)

38.1.8.2.4g)

38.1.8.2.4.2e)

41.1.3.2.3

41.1.3.3.4g)

41.1.3.3.5e)

42.1.4.2.4g)

42.1.4.2.5e)

16 Item 13 – Earthwork volume limit exemptions

Issue

In the Plan both the Rural-Residential (Chapter 31) and the Central Business (Chapter 35) zones have exemptions for limits on excavation and fill of earthworks. These exemptions apply to support structures and earthworks carried out for approved subdivisions. Council notes that there is no certainty in respect of the term “support structure” and the volumes of how much excavation/fill can occur. In addition earthworks undertaken in these situations have been the cause of complaint from adjoining neighbours and Council accordingly considers it appropriate to remove the exemptions.

Proposed Changes

Delete the exemptions (c) and (d) from Rules 31.1.6.1.3 and 31.1.7.1.3, as follows:

Exemptions

- a) *Filling or excavation associated with the construction or maintenance of flood protection works, including stopbanks or retention basins constructed by or on behalf of the Council.*
- b) *Any works involving the installation, repair or replacement of any network utility structure.*
- c) ~~*Support structures for any permitted or approved buildings and signs; or for fences and works.*~~
- d) ~~*Any earthworks carried out in accordance with an approved subdivision.*~~

Submissions

J & A Marris (34/59) and Kapiti Views Trust (33/50) consider the need for the change is not substantiated and that the change will add additional costs to development. A similar submission was received from R Evans (77/129) who considered that subdivision earthworks should be removed from the clause as they would otherwise require resource consent at additional cost.

K Suleiman (17/134) opposes the change but provided no reasons.

NZ Institute of Surveyors (NZIS) (4/8) oppose the change on the grounds that minor earthworks (greater than 20m³) for activities such as a swimming pool or driveway will now require consents in the Rural Residential and Central Business Zones. It is suggested that the volume should be increased to 150m³ and the period when the earthworks carried out be reduced to one year (rather than the current two years).

Assessment

I agree the term “support structure” is not particularly clear and could potentially apply to a large number of structures. If the term creates difficulties because of uncertainty then it should be deleted or amended. The NZIS submits that the removal of the two exemptions will mean that minor earthworks will now require resource consent as there is a threshold of 20m³. However it appears that earthworks for activities such as swimming pools and driveways require resource consent even if the exemptions are retained, as they do not appear to be support structures and are unlikely to be part of an approved subdivision.

It does appear however that “fences” can be retained in the rule as the term is certain and it is reasonable that earthworks in relation to this are exempt.

The reference to earthworks carried out as part of an approved subdivision also does however not appear to be quite so problematic. On the face of it there is not any uncertainty as the earthworks have to be approved as part of the subdivision consent and details of earthworks are clearly required by Rule 29.1.3 (v) and Rule 29.6.1(i) of the WARMP. In my view the reference to approved subdivision earthworks is not so much an exemption, but more of a clarification and at this stage it is recommended that it is retained.

It is acknowledged there appears to be some inconsistency between zones with for example no restrictions in the Urban Residential Zones. However the threshold volumes are not the subject of this plan change and the NZIS request to increase volumes is likely to be beyond the scope of this plan change.

Recommendation

1. That the submissions of J & A Marris (34/59), Kapiti Views Trust (33/50), K Suleiman (17/134), R Evans (77/129) and NZ Institute of Surveyors (4/8) be **accepted in part**.
2. That the Plan be amended by the following changes to Rules 31.1.6.1.3 and 31.1.7.1.3:

Exemptions

- a) *Filling or excavation associated with the construction or maintenance of flood protection works, including stopbanks or retention basins constructed by or on behalf of the Council.*
- b) *Any works involving the installation, repair or replacement of any network utility structure.*
- c) ~~*Support structures for any permitted or approved buildings and signs; or for Any earthworks associated with the construction of a fences and works.*~~
- d) *Any earthworks carried out in accordance with an approved subdivision.*

17 Item 14 – Garden maintenance

Issue

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 Council considers it appropriate that the Plan provides for such activities subject to appropriate protection of existing heritage or scheduled trees.

Proposed Changes

Include a new general rule that provides for the maintenance or removal of trees and vegetation as a permitted activity, as follows:

27.6 Garden maintenance

27.6.1 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:

J & A Marris (34/60) and Kapiti Views Trust (33/51) support the proposed change.

Clintondale Trust – Whyte Trustee Company Ltd (62/125) opposes the exclusion of the Rural Zone from the proposed new rule as it is assumed that garden maintenance could not be undertaken in this zone.

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 in the Rural Zone provided conditions relating to significant Indigenous vegetation are complied with.

Recommendation

1. That the submissions of J & A Marris (34/60), Kapiti Views Trust (33/51) be **accepted in part** Clintondale Trust – Whyte Trustee Company Ltd (62/125) be **accepted**.
2. That the Plan be amended by introducing new Rule 27.6 as follows:

27.6 Garden maintenance

27.6.1 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 3 and 4 Zones it complies with Rules 30.1.6 or 30.1.7.

18 Item 15 – Zoning amendment – Rarangi

Issue

The Marlborough District Council previously owned a number of vacant properties in Rarangi Beach Road that adjoined privately owned sites facing onto Rarangi Beach. The privately owned sites generally had dwellings located on them that were serviced by their own bores and water supply.

In 2005, all of these landowners took advantage of an opportunity to purchase the adjacent Council owned lots. Subdivision consent was subsequently granted to amalgamate each existing residential property with the adjoining Council sites. The subsequent sites are zoned Township Residential, as shown on Map 131.

As the properties are not reticulated with services, concern has subsequently arisen that if additional accommodation is constructed on the vacant portion of the sites, the required on-site waste water systems could have adverse effects on the existing bores and their ability to deliver water of an appropriate standard thereby resulting in a public health risk. This concern is pronounced given that the ground conditions are predominantly gravel and very permeable.

In order to address this issue, the Council proposes that those parts of the properties that are vacant or undeveloped should be subject to a deferred zoning that can be lifted at the time that appropriate reticulated services become available. Any proposal to develop the Deferred Township Residential zoned land prior to the provision of these services will require resource consent, enabling the Council to assess the potential risks to groundwater quality through the determination of the resource consent application.

Proposed Changes

Extend the Deferred Township Residential zoning over part Lots 1 – 20 DP 342604 on Map 131 (Rarangi), as identified on the map in Appendix 1 of the section 32 report.

Submissions

The Rarangi District Residents Association (54/83) supports the proposed Plan Change. R Evans (77/130) opposes the Plan Change on the basis that the Deferred Zoning limits development, and that the owner should have the choice to pay for treatment.

Assessment

As identified in the section 32 report, development of the sites is to be deferred until such time as appropriate reticulated services become available. The development potential of the sites is therefore not removed, rather the Plan Change identifies that further development should not proceed until such time as the reticulated services become available. Prior to the reticulation being available, individual owners still retain the right to seek resource consent for a dwelling with associated effluent treatment and disposal systems on the site. The Council will have the ability to consider the effects of the on-site treatment and disposal of effluent, taking into account such matters as effects on ground water and proximity to bores. Given this it is recommended the opposing submission is rejected.

Recommendation

1. That the submission of The Rarangi District Residents Association (54/83) be **accepted**; and the submission of R Evans (77/130) be **rejected**.
2. That Planning Map 131 is amended as per the Plan Change.

Appendix 1

GENERAL SUBMISSIONS

Submitter #	Submitter	Support/Oppose	Recommendation
79/115	HJ Letbe	Support/Oppose	Accept in part
59/88	Marlborough Province of Federated Farmers of NZ Ltd	Oppose	Reject
19/22	TrustPower Ltd	Support/Oppose	Accept/Reject

ITEM 1: Policy on term of water permits to take and use water

Submitter #	Submitter	Support/Oppose	Recommendation
16/20	Coatbridge Ltd	Oppose	Accept in part
19/23	TrustPower Ltd	Oppose	Accept in part
21/27	Landfall Estate Ltd	Oppose	Accept in part
28/127	J Elvy	Oppose	Accept in part
F	<i>Blind River Irrigation Ltd</i>	<i>Supports submission</i>	Accept in part
29/36	Marlborough Vegetable and Process Growers Assoc	Oppose	Accept in part
F	<i>Blind River Irrigation Ltd</i>	<i>Supports submission</i>	Accept in part
30/37	Marama Irrigation Co Ltd,	Oppose	Accept in part
F	<i>Blind River Irrigation Ltd</i>	<i>Supports submission</i>	Accept in part
31/38	Awatere Water Users Group	Oppose	Accept in part
F	<i>Blind River Irrigation Ld</i>	<i>Supports submission</i>	Accept in part
32/39	Trelawne Farm Ltd	Oppose	Accept in part

<i>F</i>	<i>Blind River Irrigation Ltd</i>	<i>Supports submission</i>	Accept in part
33/40	Kapiti Views Trust	Oppose	Accept in part
<i>F</i>	<i>Wilkes RM Ltd</i>	<i>Supports submission</i>	Accept in part
<i>F</i>	<i>Blind River Irrigation Ltd</i>	<i>Supports submission</i>	Accept in part
53/81	Delegat's Wine Estate Ltd	Oppose	Accept in part
<i>F</i>	<i>Blind River Irrigation Ltd</i>	<i>Supports submission</i>	Accept in part
<i>F</i>	<i>Wilkes RM Ltd</i>	<i>Supports submission</i>	Accept in part
56/85	J Webber	Oppose	Accept in part
<i>F</i>	<i>Blind River Irrigation Ltd</i>	<i>Supports submission</i>	Accept in part
57/86	Van Asch Irrigation Ltd	Oppose	Accept in part
<i>F</i>	<i>Blind River Irrigation Ltd</i>	<i>Supports submission</i>	Accept in part
58	Beavon Investments Ltd	Oppose	Accept in part
59/89	Marlborough Province of Federated Farmers	Oppose	Accept in part
<i>F</i>	<i>Blind River Irrigation Ltd</i>	<i>Supports submission</i>	Accept in part
60	T Caccimani	Oppose	Accept in part
61/93	Blind River Irrigation Ltd	Oppose	Accept in part
<i>F</i>	<i>TrustPower</i>	<i>Opposes Submission Point 93</i>	Accept in part
62/95	Clintondale Trust – Whyte Trustee Company Ltd	Oppose	Accept in part
<i>F</i>	<i>Blind River Irrigation Ltd</i>	<i>Supports submission</i>	Accept in part
<i>F</i>	<i>Wilkes RM Ltd</i>	<i>Supports submission</i>	Accept in part
76/109	Starborough Farming Company	Oppose	Accept in part
<i>F</i>	<i>Blind River Irrigation Ltd</i>	<i>Supports submission</i>	Accept in part
80/116	Royal Forest and Bird Protection Society NZ	Support	Accept in part
<i>F</i>	<i>Trust Power Ltd</i>	<i>Opposes submission Point 116</i>	Accept in part
81/122	Marlborough Winegrowers Association Inc	Oppose	Accept in part
<i>F</i>	<i>Blind River Irrigation Ltd</i>	<i>Supports submission</i>	Accept in part
<i>F</i>	<i>Wilkes RM Ltd</i>	<i>Supports submission</i>	Accept in part

82/123	GS & FW Orchard Ltd	Oppose	Accept in part
F	Blind River Irrigation Ltd	Supports submission	Accept in part

ITEM 2 Definition of "Family Flat"

Submitter #	Submitter	Support/Oppose	Recommendation
65/98	F Patchett	Oppose	Accept in part
63/96	K and L Morgan	Oppose	Accept in part
17/131	K Suleiman	Oppose	Reject
77/110	R Evans	Oppose	Reject
1/1	J Falloon	Oppose	Reject
4/6	NZ Institute of Surveyors)	Oppose	Reject
2/2	A Smith,	Oppose	Reject
58/87	,Beavon Investments	Oppose	Reject
3/3	B Wadsworth	Oppose	Reject
33/41	Kapiti Views Trust	Oppose	Reject
34/43	J & A Marris	Oppose	Reject

ITEM 3 Setback from waterbodies for reasons other than avoiding flood hazard

Submitter #	Submitter	Support/Oppose	Recommendation
80/117	Royal forest Bird and Protection Society	Support	Accept
77/111	R Evans	Oppose	Reject
33/42	Kapiti Views Trust	Oppose	Reject
34/52	J & A Marris	Oppose	Reject

ITEM 4 Remove reference to “Hazards Register” as none exists

Submitter #	Submitter	Support/Oppose	Recommendation
	No submissions received		

ITEM 5 Controlled activity rule for development

Submitter #	Submitter	Support/Oppose	Recommendation
5/31	Marlborough District Council	Oppose	Accept

ITEM 6: Clarify that utility provisions apply to “requiring authority”

Submitter #	Submitter	Support/Oppose/	Recommendation
5/9	G van Antwerpen	Oppose	Accept in part
6/10	N Wilhelmus	Oppose	Accept in part
7/11	J Griffiths	Oppose	Accept in part
8/12	K Hynds	Oppose	Accept in part
9/13	K Hannagan	Oppose	Accept in part
10/14	J Neal	Oppose	Accept in part
11/15	I Conway	Oppose	Accept in part
12/16	R Carter	Oppose	Accept in part
13/17	H Stephens	Oppose	Accept in part
14/18	P Rennie	Oppose	Accept in part
15/19	J Davidson	Oppose	Accept in part
18/21	S Rae	Oppose	Accept in part
19/24	TrustPower Ltd	Oppose	Accept in part
20/26	J Reddan	Oppose	Accept in part

22/28	C Grant	Oppose	Accept in part
23/29	Dr A Whitaker	Oppose	Accept in part
24/30	Marlborough Amateur Radio Club	Oppose	Accept in part
F	H Harris	<i>Supports submission</i>	Accept in part
26/34	B Leach	Oppose	Accept in part
27/35	T Daken	Oppose	Accept in part
28/126	J Elvy	Oppose	Accept in part
F	<i>Blind River Irrigation Ltd</i>	<i>Supports submission</i>	Accept in part
33/44	Kapiti Views Trust	Oppose	Accept in part
F	<i>Wilkes RM Ltd</i>	<i>Supports submission</i>	Accept in part
F	<i>Blind River Irrigation Ltd</i>	<i>Supports submission</i>	Accept in part
34/53	J & A Marris	Oppose	Accept in part
F	<i>Wilkes RM Ltd</i>	<i>Supports submission</i>	Accept in part
35	Constellation Brands Ltd	Oppose	Accept in part
F	<i>Wilkes RM Ltd</i>	<i>Supports submission</i>	Accept in part
36/62	B Lankshear	Oppose	Accept in part
37/63	D Hanover	Oppose	Accept in part
38/64	J Walding	Oppose	Accept in part
39/65	D Bradfield	Oppose	Accept in part
40/66	J Kidwell	Oppose	Accept in part
41/67	C Lawson	Oppose	Accept in part
42/68	W Brunton	Oppose	Accept in part
43/69	L Taylor	Oppose	Accept in part
44/70	P Rayaner	Oppose	Accept in part
45/71	J Wooding	Oppose	Accept in part
46/72	L Rice	Oppose	Accept in part
47/73	K Pope	Oppose	Accept in part

48/74	M Wooding	Oppose	Accept in part
49/75	O Reed	Oppose	Accept in part
50/76	R York	Oppose	Accept in part
51/77	W Lucas	Oppose	Accept in part
55/84	N Marr	Oppose	Accept in part
60/91	T Caccimani	Oppose	Accept in part
64/97	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>W Cousins</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>D McGuire</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>	Accept in part
<i>F</i>	<i>M Bull</i>	<i>Supports submission</i>	Accept in part
<i>F</i>	<i>D Karrasch</i>	<i>Supports submission</i>	Accept in part
<i>F</i>	<i>R Kiessig</i>	<i>Supports submission</i>	Accept in part
<i>F</i>	<i>I Boot</i>	<i>Supports submission</i>	Accept in part
<i>F</i>	<i>M Spearman</i>	<i>Supports submission</i>	Accept in part
<i>F</i>	<i>K Browning</i>	<i>Supports submission</i>	Accept in part
<i>F</i>	<i>L Boyle</i>	<i>Supports submission</i>	Accept in part
<i>F</i>	<i>K O'Sullivan</i>	<i>Supports submission</i>	Accept in part
<i>F</i>	<i>J Hutton</i>	<i>Supports submission</i>	Accept in part
<i>F</i>	<i>A Barron</i>	<i>Supports submission</i>	Accept in part
<i>F</i>	<i>E Scudamore</i>	<i>Supports submission</i>	Accept in part
<i>F</i>	<i>Te Puke Amateur Radio Club Inc</i>	<i>Supports Submission</i>	Accept in part
<i>F</i>	<i>B Heywood</i>	<i>Supports submission</i>	Accept in part

F	K Hampshire	Supports submission	Accept in part
F	R Futter	Supports submission	Accept in part
F	R Cole	Supports submission	Accept in part
F	J Cullen	Supports submission	Accept in part
F	T Fielding	Supports submission	Accept in part
F	R de Wit	Supports submission	Accept in part
F	A McCaw	Supports submission	Accept in part
F	W Bottomley	Supports submission	Accept in part
F	B Rickard	Supports submission	Accept in part
F	K Ironside	Supports submission	Accept in part
67/100	J Herbert	Oppose	Accept in part
69/102	S Tennant	Oppose	Accept in part
70/103	J Lawson	Oppose	Accept in part
71/104	R Nicoll	Oppose	Accept in part
72/105	J Lamb	Oppose	Accept in part
73/106	M O'Neill	Oppose	Accept in part
74/107	G Buck	Oppose	Accept in part
75/108	K Menzies	Oppose	Accept in part

ITEM 7

7.1 Reconcile subdivision standards for Township Residential Zone (Renwick) with site density standards

Submitter #	Submitter	Support/Oppose	Recommendation
17/133	K. Suleiman	Oppose	Reject

7.2 Clarify that building platforms must be free from assessments and yard setbacks

Submitter #	Submitter	Support/Oppose	Recommendation
77/112	R Evans	Oppose	Accept in part
33/45	Kapiti Views Trust	Oppose	Accept in part
34/54	J & A Marris	Oppose	Accept in part
4/7	NZIS	Oppose	Accept in part

7.3 Remove references to Section 321 of the Local Government Act

Submitter #	Submitter	Support/Oppose	Recommendation
	No Submissions Received		

7.4 Remove references to compliance with Assessment Matters

Submitter #	Submitter	Support/Oppose	Recommendation
25/32	Marlborough District Council	Oppose	Accept

ITEM 8 Include rules for the damming of water

Submitter #	Submitter	Support/Oppose	Recommendation
80/118	Royal Forest and Bird Protection Society	Neutral	Accept
61/92	Blind River Irrigation Limited	Support	Accept
34/55	J and A Marris	Support	Accept
33/46	Kapiti Views Ltd	Support	Accept
19/25	TrustPower Limited	Support	Accept in part

ITEM 9 Subdivision in the Conservation Zone

Submitter #	Submitter	Support/Oppose	Recommendation
80/119	Royal Forest and Bird Protection Society	Support	Accept

ITEM10 Wineries, distilleries and breweries in Rural Environments

Submitter #	Submitter	Support/Oppose	Recommendation
78/114	WilkesRM Solutions Ltd	Oppose	Accept
25/33	Marlborough District Council	Oppose	Accept
62/124	Clintondale Trust – Whyte Trustee Company Ltd	Oppose	Accept in part
34/56	J & A Marris	Oppose	Accept in part
33/47	Kapiti Views Trust	Oppose	Accept in part
3/4	B Wadsworth	Oppose	Reject
35/61	Constellation Brands	Oppose	Reject
53/82	Delegat's Wine Estate Ltd	Oppose	Reject
68/101	Guernsey Road Residents Association	Oppose	Reject

ITEM 11 Amendments to definition of "Home Occupation"

Submitter #	Submitter	Support/Oppose	Recommendation
34/57	J & A Marris	Oppose	Reject
33/48	Kapiti Views Trust	Oppose	Reject
3/5	B Wadsworth	Oppose	Reject
77/128	R Evans	Oppose	Reject
66/99	S Jerrett	Oppose	Reject

ITEM 12 Include drainage channels in the rules requiring discharge setbacks from waterbodies

Submitter #	Submitter	Support/Oppose	Recommendation
17/132	K Suleiman	Oppose	Accept in part
34/58	J & A Marris	Oppose	Accept in part
33/49	Kapiti Views Trust	Oppose	Accept in part
59/90	Marlborough Province of Federated Farmers	Oppose	Accept in part
80/120	Royal Forest and Bird Protection Society	Support	Accept in part

ITEM 13 Earthwork volume limit exemptions

Submitter #	Submitter	Support/Oppose	Recommendation
17/134	K Suleiman	Oppose	Accept in part
34/59	J & A Marris	Oppose	Accept in part
33/50	Kapiti Views Trust	Oppose	Accept in part
4/8	NZ Institute of Sovereign	Oppose	Accept in part
77/129	R Evans	Oppose	Accept in part

ITEM 14 Garden maintenance

Submitter #	Submitter	Support/Oppose	Recommendation
62/125	Clintondale Trust – Whyte Trustees Company Ltd	Oppose	Accept
34/60	J & A Marris	Support	Accept in part
33/51	Kapiti Views Trust	Support	Accept in part.

ITEM 15 Zoning Amendment - Rarangi

Submitter #	Submitter	Support/Oppose	Recommendation
58/43	The Rarangi District Residents Association	Support	Accept
77/130	R Evans	Oppose	Reject

Appendix 2

In the Matter of Proposed Plan Change 61

to the Wairau Awatere Resource

Management Plan

**Item One - Policy on Term of Water Permits
to Take and Use Water**

**Report by Commissioner R.D.Crosby on Pre Hearing Meeting held 17 May 2013
(Pursuant to cl.8AA First Schedule RMA)**

1. I was appointed as an independent Commissioner to chair a Pre Hearing meeting between Council and the submitters to Item One of PC 61 which relates to the policy on the term of Water Permits to take and use water. Appendix One hereto lists those submitters who attended the pre-hearing meeting. Most, but not all, submitters attended. Council staff present were Pere Hawes, Manager Environmental Policy, Rachel Anderson, Policy Portfolio Manager, and Mark Caldwell, Planning Technician.
2. Those submitters who did attend constituted a range of water users from the Awatere, Wairau, Waihopai and Rai Valley/Pelorus catchments. They also included a range of users of water from both surface and aquifer sources, and holders of permits with varying terms up to and including one holder of a permit issued for a term of 30 years.

Background

3. Prior to the proposed change the relevant policy 6.3.1.1.3 in the operative Wairau Awatere Resource Management Plan (WARMP) provided in part:

"To increase certainty for water users by issuing permits for 30 year terms, subject to reviews of the resource every 5 to 10 years to ensure ongoing sustainable management of the water resource."

4. The purpose of the Proposed Change as notified was to amend that policy to reduce the term for which such permits were intended to be issued to 10 years, in circumstances:

"...where water resources are either fully allocated or over-allocated relative to the allocation limits set in this Plan or where water is to be taken from a resource for which no SFR has been established in the Plan."

5. The proposed amendment to the Explanation to the Policies under section 6.1.3 of the Plan particularly emphasised that the reduced terms would enable adverse effects of abstraction in full- or over-allocated situations to be addressed in a timely fashion. Where no SFR existed the proposed amended Explanation was that the reduced term was appropriate because of the uncertainty over the cumulative effects of water extraction in those circumstances.

6. Those proposed amendments to the Explanation of the Policies did not fully reflect the discussion in the actual Explanation of Item One contained in the s.32 report accompanying PC 61, which was more informative. That Explanation emphasised the following points:
- The fact that consenting practice had not typically reflected the Plan policy of 30 year terms, with most permits issued for terms in the range of 10-20 years, because of the level of demand in various catchments approaching or even exceeding allocation limits.
 - The power to review conditions had been held by case law to be limited to the terms upon which the allocation was taken and used, but not the amount allocated, meaning the process of review of conditions could not control allocation levels.
 - The new National Policy on Freshwater Management (NPSFM) 2011 required the effects of full and over-allocation to be taken into account, which required permit terms now of far less than 30 years. Instead PC61 proposed a reduced term *“to provide certainty to water users, while allowing Council to effectively reconsider the consent to address full or over-allocation issues.”*
 - In catchments with no SFR there was such a level of uncertainty as to the nature and severity of effects, due to lack of hydrological information and/or knowledge of in-stream values, that again 10 year terms were appropriate to enable the addressing of effects on expiry of a permit, when a new permit was applied for.
7. This report will later highlight the fact that at the pre-hearing meeting even greater emphasis was placed by Council staff on certain compelling legal aspects of those points, and more detailed greater background explanation was provided by them which emphasised the transitional nature of the proposed Change, and its overall purpose.

Submissions

8. The formal statutory summary of the submissions prepared by Council effectively identified those matters raised in the submissions and a copy of that document is annexed to this report as Appendix Two. Among the more significant points made in those submissions were the following matters. (Obviously not all submitters were advancing all these issues, and they constitute my own analysis of the combination of points raised by all the submissions. Different submitters particularly sought different relief, as is only to be expected.):

Investment, planning, regional significance

- (i) *Value of investment and infrastructure so significant that it requires certainty of long permit term for recovery.*
- (ii) *10 year term will not enable forward planning with degree of confidence necessary for major investments or infrastructure reliant on consistent water supply.*
- (iii) *Reduction of term to a point where return on investment is not guaranteed would lower confidence for investment in the region.*



- (iv) *Grape vines have life spans in excess of 35 years and require water over the full term of their growing life to safeguard high quality consistent production.*

Plan processes

- (v) *Proposed change is a change to a longstanding policy in the Operative Plan developed and endorsed by Marlborough community.*
- (vi) *Reduction of term from 30 to 10 years is not a "Minor amendment" to the Plan and "In-depth" research is needed before making such a change.*
- (vii) *Reduction of term is proposed to be expressed in case of full or over allocation or where no SFR established but makes no provision for longer term where those situations do not apply.*
- (viii) *Water allocation is before Council as part of its Plan Review process and no pressing need has been shown for early piecemeal plan change to address term of water rights.*
- (ix) *Deferral of the change to the next Plan review will enable collection of more certain hydrological data on which to base extent of water resources and severity of potential effects of consents on them.*

Alternative Appropriate Term approaches

- (x) *s.123 (d) RMA provides for grants of consent for water rights of up to 35 years.*
- (xi) *The Third Report of the Land and Water Forum, a nationally consultative grouping, recommends water allocation consent terms of 20-35 years.*
- (xii) *A 30 or 20 year term is more appropriate for surface bodies with established and agreed sustainable flow regimes – such as Awatere, Waihopai and Wairau rivers.*
- (xiii) *A 10 year term only for those water resources that are over-allocated relative to allocation limits set in the Plan or where no SFR is established in the Plan, with 20 year term for water resources where SFR established in the Plan and resource is not over-allocated.*
- (xiv) *For water bodies with no sustainable flow regime in place 15 year term for discharge consents where water quality is to be maintained, and 10 years where water quality requires enhancement.*

9. Given the nature of the further more extensive explanation provided by Council staff at the start of the meeting, not all those issues were expanded upon by submitters at the meeting, but most of them were emphasised by one or other of the submitters in their responding comments to Council's presentation.

Council's presentation at Pre-Hearing Meeting

10. At the commencement of the meeting Mr. Hawes presented a power-point presentation which emphasised the following factors relevant to Council's proposal of Item One in PC 61:

- *Objective B2 and Policy B5 of the 2011 NPSFM require avoidance of further over-allocation & phasing out of existing over-allocation*
- *Policy E1 of the NPSFM requires complete implementation of the new regime by 2030 and staged programme by 31/12/2014*
- *Council has decided to implement water quantity aspects of NPSFM by the current Plan review process by end 2014 with allocation issues overseen by the Water Allocation Working Group*
- *WARMP framework sets maximum limits on resource use cumulatively from specified resources and individually by allocations in permits through use of allocation guidelines*
- *Full allocation exists in Awatere & Waihopai A & B classes, with no cap on C class*
- *Allocation limits exceeded on paper in Southern Valleys aquifers & Wairau Aquifer*
- *Review process will set limits, subject to review of allocation classes and reasonable use requirements, with potential for limits to change*
- *Present s.128 review powers do not enable review of allocation amount in permit which is the consented activity, but only of conditions of use of water allocated, so no ability to vary allocation exists for duration of permit*
- *Hence allocation reviews cannot occur every 5 or 10 years under s.128 but only on renewal, and any new limits to comply with NPSFM can only be imposed in context of total allocation and reasonable use requirements*
- *NPSFM regime must be given effect by 2030*
- *At present a significant number of permits expire in the short-term, i.e 137 in 2013/2014, and if current 30 year policy was to be applied to those, effect could not be given to the NPSFM until 2043-2044*
- *Council wishes to avoid having to decline water permit applications by way of renewal simply to avoid over allocation requirements of NPSFM in Objectives B2 and Policy B5*
- *Proposed Change 61 is an interim measure to avoid that outcome and is restricted to full- and over-allocated resources and those with no SFR*
- *It affects water permits for Awatere & Waihopai A & B classes and Southern Valley and Wairau aquifers, but does not affect Awatere & Waihopai C classes, or Wairau B & C classes.*
- *Example given of Awatere where 44 of 137 permits expiring next two years. All 44 already have 10 year terms*
- *New framework will be managing full/over allocation issues, but with a strong desire to provide long term permits*

11. The most significant of those factors was the transitional nature of PC 61. It was stated to be intended to effectively 'hold the fort' pending the Plan Review process that Council was undertaking. That was being prepared with a view to moving to the limits-based freshwater management regime through Plan rules required by the NPSFM, as a result of which it was Council's aim to endeavour to meet the demand for longer term certainty through longer term permits.

12. The principal underlying factor to the transition in management approach was the mandatory or directory nature of the NPSFM which required effective Council response by 31/12/2014 on a programme to ensure the new limits-based management regime was in place by no later than 2030. Mr. Hawes emphasised that in order for Council to be able to meet that required 2030 goal Council could not now allow longer term permits to be issued where resources were fully- or over-allocated.
13. The Council presentation was responded to by most submitters present in a manner which again emphasised the importance of longer terms for the high level of investment reliant on the water allocated by the permit; and queried the need for the changes sought and the efficacy of the transitional function served by the proposed Change. That response was rather highlighted by the request by Mr. Van Asch for a summary of the NPSFM. Mr. Hawes' reply was that the document was lengthy and complex but had been formally reported on by staff to the Council's Environment Committee and he made available to the submitters a copy of that report - which itself appeared complex and unlikely to be able to be absorbed effectively at the meeting.
14. At that stage I read to the meeting excerpts I had extracted from various parts of the NPSFM which I believed summarised its purpose and proposed methods of operation and adoption. Those quoted excerpts were as follows:

- *"A major element of the NPSFM is a strengthened limits-based water management regime.*
- *providing an appropriate balance between the need for users to have certainty of allocation over time, the need for the community to retain the ability to adjust allocations to improve outcomes, and the need to allow new water users to have an opportunity to gain an allocation where the resource is already fully allocated*
- *Where insufficient information is available, a conservative approach could be taken in the short term (e.g., through the use of a default limit) while information is gathered to inform the setting of environmental flows (limits) across a catchment.*
- *The intention is for decisions on allocation efficiency to be made in plans, not through consents. This enables all takes, consented or otherwise, to be accounted for in providing for efficient allocation.*

Regional councils with over-allocated catchments may be able to consider a range of options to review and reduce allocations. These include: reallocation; or progressive reduction in the volumes of water consented to be taken over time (sinking lid); or common expiry dates within the catchment. "

15. I emphasised that at law some of those methods were mandatorily directed to be adopted by Councils, and others were required to be taken into account. The Council had no option but to comply with those directions. That was particularly so in respect of full- or over-allocation situations, or where no SFRs existed. The requirement for the setting of allocation limits would require an appropriate level of sufficient hydrological information to

be available in each catchment, including such vital factors as - long-term rainfall replenishment given possible climate change effects; drawdown effects; inter-connectivity between aquifers and surface flows; as well as in-stream values.

16. However, I also observed that the NPSFM had unfortunately left somewhat of an unsatisfactory situation for Regional Councils as to how they were to resolve the obligation to adopt by 2030 the new limits-based management regime controlling allocation by Plan rules rather than through consents, with the reality that water permit duration terms were left vague in the RMA. I stressed that Council had to grapple with a very real tension between s.123 of the RMA allowing the fixing of water permit terms between 5 and 35 years with no set criteria to assist; Plan review periods of 10 years relevant to the new NPSFM requirements of limits-based management regimes through Plan rules; and now a publicly announced non-statutory support of 20 year terms in recent national Freshwater Forum recommendations. The only specific guidance on that issue that was available, was the NPSFM recommendation of a conservative approach in the short term, which the proposed Change followed by its transitional 'holding' nature.

17. I invited Council staff to disagree if I was in error, but said it was my understanding, having heard Mr. Hawes, that the intention of the proposed Change was for it to be a very short transitional position to "hold the fort" while the Plan review process was undertaken, and that that would occur no later than 31/12/2014. I also sought a Council response on my expectation that the limits-based management regime Council had in mind would be catchment-based.

18. Mr. Hawes confirmed those matters, and he went further to reiterate the point made in his powerpoint that it was Council's intention in that Plan review process to acknowledge the desire of water users to have the certainty of longer term permits. He hoped they could be of 20 years duration in those catchments where allocation limits were set through the Plan mechanism.

19. Mr. Hawes' response in turn appeared to draw a favourable, if resigned, acceptance from some submitters, but with their accurately observing that the proposed Plan Change wording as notified did not convey that transitional nature to the proposal, or the factors that were driving it, in the same manner that had now been outlined at the meeting.

Possible resolution to Issue

20. At that stage I presented a short paper to the meeting – copy attached as Appendix Three – of a range of possible outcomes which I had prepared for my own reference before the meeting, but after reading the proposed Change and the submissions. That paper did not propose any particular terms for water permits, as I felt that the issue of whether particular terms should be considered was for discussion at the meeting.

21. Mr. Hawes made it plain that both for Council's consistent planning purposes, and to provide some level of certainty for water permit users in the transitional process, he felt strongly that a 10 year term should be specified. He made the valid point that otherwise

inconsistencies between permit terms could arise as new permit hearings were individually dealt with by way of renewal either by different Council Hearings Committees or by Hearings Commissioners.

22. At that stage a number of the submitters stated that given what they had now heard they could accept a 10 year term for the short transitional period.

23. I then asked Mr. Hawes if he was comfortable with he or his staff redrafting the proposed change wording to reflect the discussions at the meeting as to the following matters:

- the transitional nature of the proposal to hold the situation pending public notification of the new Plan Review by 31/12/2014
- that the Plan Review in 2014 was the method by which it was intended to commence the limits-based management regime required by the NPSFM
- that full- and over- allocated situations would be addressed in the Review process
- the long term allocation limits to be explored would be catchment-related
- that the long term aim of the limits-based management regime would be to provide longer term security of 20 year terms for water permits, but with allocation limits set and reviewed by Plan rules

24. Mr. Hawes responded positively to that, although he expressed the view that some of those matters would be best expressed in the Explanations to the policy rather than in the policy itself.

25. I then enquired of the submitters if they were content with that outcome in a satisfactorily re-worded form, and a positive reaction was received from those present. I then requested that Council circulate its proposed new wording direct to submitters. I also requested that if submitters were comfortable with the amended transitional wording of the proposed change which Council proposed to circulate, that they advise Council staff of that fact preferably in writing. However, I also recorded that if they wished to, they retained the opportunity of making any further submission at the hearing.

26. (At the conclusion of the meeting and as submitters departed, one of the submitters Mr. Whyte approached me to ask that I consider noting whether Council could also consider if the amended wording policy or Explanation could provide for those caught by the transitional 10 year term to have the opportunity later to seek a review of the term to align with longer term permits if those transpired from the Plan review process. Whilst strictly that request fell outside the terms of a meeting that had been completed at the time when it was made, I felt it reasonable to include his request that Council consider that being mentioned as a further condition of each consent when the 10 year transitional term is imposed. If the possibility of extension was to be reserved it would need to occur as a matter of conditions at grant of consent, because I have since confirmed it is specifically not available as an applicant- sought review of conditions under s.127 (1) (b) of the RMA which provides:



“(b) no holder of any consent may apply for a change or cancellation of a condition on the duration of the consent.”

Formal report

27. Sub-clause 8AA(5)(b) of the First Schedule provides that in furnishing this statutory report on the pre-hearing meeting I may also identify the nature of evidence to be called, the order the evidence is to be given, and a proposed timetable for the hearing. Given the extent of agreement able to be reached at the pre-hearing meeting, I considered the first two of those options likely to be unnecessary.
28. As to the third matter, as a hearing on the other Items in PC61 will be necessary, and as not all submitters on PC61 were present at the pre-hearing meeting, opportunity for appearance by them at a hearing will be necessary. However, it is impossible for me to suggest a timetable without knowing to what extent those other submitters wish to be heard on Proposed Change 61 in the amended form now proposed.
29. It may well be that informed by this report, and having received and considered the proposed new amended wording for Item 1 in PC61, those submitters, (and the submitters who did attend the pre-hearing meeting), will be comfortable with its transitional nature, and direct their energies into the consultative approach to the Plan review process on the new limits-based management regime with allocation set by Plan rules with longer water permit terms. (I reiterate that Mr. Hawes’ powerpoint had confirmed that allocation process was to be overseen by the Water Allocation Working Group.)
30. The challenge now then rests on Council’s staff to succinctly capture all the information they advanced at the prehearing meeting which underlies Item One of PC61. That can be done by way of a combination of an amended policy wording and an amended Explanatory statement accompanying the policy which can be circulated amongst the submitters with a view to achieving an agreed outcome at the hearing.
31. I am satisfied the width of the relief sought in the submissions is such that an amendment of that nature is within Council’s jurisdiction.
32. I did not see that there was any need for my further involvement, or for any adjournment of this pre-hearing meeting, so that process can be considered concluded with the issue of this report pursuant to cl. 8AA(5)(a) First Schedule RMA.



33. I request the Council to circulate this report to all who attended the meeting, and in this case, also to all other submitters, together with a copy of the amended wording it proposes to Item One of PC 61.

Dated this 23rd day of May, 2013.


R.D. Crosby
Commissioner

Appendix One

Pre Hearing Meeting – Water Permit Term - Attendance

17 May 2013

Organisation	Name
Delegat's Wine Estate Limited	Dr Balasubramaniam Rengasamy (Bala)
Clintondale Trust	David Whyte
Landfall Estate Limited	Jeremy Laurenson
Blind River Irrigation Limited	Neale Lawson
van Asch Irrigation Limited	Geoffrey van Asch
Marlborough Vegetable and Process Growers Association	Andrew Jones
Starborough Farming Company	
Trelawne Farm Limited	Guy Lissaman
Awatere Water Users Group	
Marlborough Winegrowers Association Incorporated	
Coatbridge Limited	Scott Adams
Marlborough Province of Federated Farmers of NZ	Kevin Payton

Appendix Two

Submission Summary - Wairau/Awatere Resource Management Plan - Plan Change 61 - Minor Amendments - By Section

Item 1 - Policy on term of water permits to take and use water

Awatere Water Users Group (Guy Lissaman) - Submitter #: 31 Submission Point : 38

There is a substantial financial investment in establishing irrigation infrastructure, development and technology to utilise water efficiency. These are long term investments and require certainty of access to water over a 20 to 30 year period to safe guard the investment required.

The Water Allocation Plan is currently under review as part of the Wairau/Awatere Regional Policy Statement Review. This proposed amendment through a Plan change would be premature and pre-emptive while the Water Allocation Review is yet to be completed.

Relief sought: Delete entirely item 1 "Term of Water Permits for the Taking of Water from the Proposed Plan Change - Schedule of Changes"

No further action on this item be contemplated until the completion of the Water Allocation Plan Review

Blind River Irrigation Limited (Steve Wilkes) - Submitter #: 61 Submission Point : 93

Blind River Irrigation Limited opposes Item 1 and the proposed change to Policy 6.3.1.1.3.

The proposed change is a substantial change to a long standing policy that was developed and endorsed by the Marlborough Community.

Blind River Irrigation Limited consider that for surface water bodies with established and agreed sustainable flow regimes in place such as the Awatere, Waihopai and Wairau Rivers it is more appropriate that water permits be granted for a minimum term of 20 years.

Such a term is consistent with the Third Report of the Land and Water Forum which recommends that regional councils should grant water allocation consents for 20 to 35 years.

Relief sought: Blind River Irrigation Limited submit that Item 1 and the proposed change to Policy 6.3.1.1.3 be rejected in entirety. If it is considered that a change to Policy 6.3.1.1.3 is necessary for that water bodies that do not have in place Sustainable Flow Regimes, then Blind River Irrigation Limited submits that:

i. Policy 6.3.1.1.3 be amended as follows:

To issue discharge permits for a maximum period of 15 years for resources where the existing water quality is to be maintained and to issue discharge permits for a maximum period of 10 years in resources where the existing water quality requires enhancement.

To issue water permits to take and use water for a period of 10 years where water resources are over-allocated relative to the allocation limits set in this Plan or where water is to be taken from a resource for which no SFR has been established in the Plan.

To issue water permits to take and use water for a period of 20 years for water resources where a Sustainable Flow Regime (SFR) has been established in the Plan and where the water resource is not over-allocated.

To issue discharge permits for a maximum period of 15 years for resources where the existing water quality is to be maintained and to issue discharge permits for a maximum

period of 10 years in resources where the existing water quality require enhancement.

Clintondale Trust - Whyte Trustee Company Limited (David Whyte) - Submitter #: 62
Submission Point : 95

With regard to vineyard development a return of investment is realistically a long term prospect, calculated in decades similar to the life of the vines on which the investment is predicated. Vine viability is reliant upon a reliable and consistent water supply. Any impact upon the water supply jeopardises the likelihood of a return on investment.

The importance of consistency and continuity would appear to be recognised by the Resource Management Act 1991 in making provision for water permits to be issued for periods of 30 years.

Any reduction in the duration of a water supply to a point where achieving a return on investment is no longer feasible would significantly impact upon confidence in committing significant financial resources into the local industry, and the Region as a whole.

To reduce the term of water permits to take and use water from 30 years to 10 years is significant and cannot be considered a "Minor Amendment".

- Further detail is provided in the full submission

Relief sought: The submitter seeks the Council's determination to:

(a) Delete entirely Item 1 Term of Water Permits for the Taking of Water from the Proposed Plan Change - Schedule of Changes.

(b) No further action on this item be contemplated until the completion of the Water Allocation Plan Review.

(c) Consideration be accorded addressing this aspect in the next full review of the Plan which would enable sufficient time for all ongoing reviews to be conducted to secure better hydrological information and knowledge on which to base more definitively the extent of the water resources and the severity of adverse effects upon them.

Coatbridge Limited (Scott Rae William Adams) - Submitter #: 16 Submission Point : 20

Oppose. Leave as status quo leaving terms of up to 30 years.

Relief sought: Leave as is.

Delegat's Wine Estate Ltd (R Bala) - Submitter #: 53 Submission Point : 81

In the submitters view the policy change seeks to unduly restrict the term for water permit. Additionally the proposed new policy does not adequately reflect:

- i. the existing Plan provisions regarding water allocation; and
- ii. The level of knowledge surrounding Marlborough water resources in particular the surface water resources of the Awatere, Whaihopai and Wairau Rivers.

Delegat's considers that surface water bodies that have established SFR's it is more appropriate that water permits be granted for a term of 30 years.

Such a term is consistent with the Third Report of the Land and Water Forum which recommends that regional councils should grant water allocation consents for 20 to 35 years.

Relief sought: Opposes the proposed changes to Policy 6.3.1.1.3(i) and (ii).

Retain the current intention and wording of this Policy - reject the proposed changes in entirety.

GS & FW Orchard Ltd (Graeme Orchard) - Submitter #: 82 Submission Point : 123

This submission opposes the maximum term for a water permit being reduced to 10 years.

Ten years does not allow for certainty in on going planning for future diversification and land development which can only be implemented with the knowledge that irrigation is a certainty.

Relief sought: No further action to be taken on this until the completion of the water allocation plan

John Elvy - Submitter #: 28 Submission Point : 127

the submitter supports the proposed changes on two fronts:

(a) Leaving the domestic water extraction 'as is'.

(b) Reducing the term for non domestic water extraction to a maximum of 10 years. A reduced term would allow improved management of this valuable resource, especially in cases where over allocation may be a reality.

If the term is reduced MDC should look at ways to streamline the application/renewal process so that the costs are not excessive for commercial users.

Relief sought: Leave the domestic water extraction provision as is.

Reduce the extraction term for commercial users to 10 years.

In instances where 'Commercial Extraction' currently occurs, that rather than the user apply for renewal that MDC reverse the policy and offer the user what is fair and reasonable based on their previous metered extraction records and what the resource can provide. This should streamline the renewal process and minimise costs in most cases.

That where an increase in abstraction is sought that this be subject to a new Consent Application.

That MDC investigate incentives for 'Smart Water Use' and promote this.

John Webber - Submitter #: 56 Submission Point : 85

The submitter opposes the proposed plan change.

There is significant financial investment in the establishment of water infrastructure plus ongoing costs of delivering water to vines. Such developments are long term investments that require long term water certainty.

Shorter consent terms will increase the frequency of renewals (depending on consent number and cycles) and this is a costly and time consuming process.

Relief sought: That the policy on term of water permits to take and use water remain unchanged.

That no further action on this item be contemplated until the completion of the Water Allocation Plan Review.

Further consultation with Marlborough Water Forum is undertaken and users are kept informed of progress.

Kapiti Views Trust (John Marris) - Submitter #: 33 Submission Point : 40

The value of the infrastructure and crop requires long term certainty of water supply.

Over allocation should be responded to in another way other than the reducing of the water permit term.

Relief sought: Maintain the 30 year period for water permits.

Landfall Estate Limited (Jeremy Laurenson) - Submitter #: 21 Submission Point : 27

Irrigation systems are expensive to install and operate

The land is expensive to purchase and to establish an agricultural/horticultural activity requires significant capital.

The land use based on these irrigations systems is very capital intensive and typically has at least a 50 year horizon.

The cost of renewing a permit has increased from about \$200 to the now prevalent \$2,400 per application. Under the current plan one application would be required - \$2,400- to three times \$2,400 + inflation and council bloat, say \$15,000.

All currently issued permits provided that in certain circumstances the terms of the permit may be varied and indeed, the Plan as amended, says "Resource reviews will be undertaken every 5 or 10 years depending on location, to ensure ongoing sustainable and equitable management of the resource:" ...

Water permits are issued with safeguards for changes in circumstance so there is no need to reduce the term from 30 years.

Under the current Plan the terms of water permits have been arbitrarily applied with consent terms of 30, 15 and 10 years be issued. It is not clear that Council would not continue to exercise a discretion.

Water consents are already issued with appropriate safeguards for changes in circumstances so there is no need to reduce the initial term from 30 years.

Relief sought: Reissue all water permits for a term of 30 years from their initial issue date.

The council would have no discretion to vary this term (Other than in the event of adverse circumstances)

The council would continue to monitor all permits for adverse circumstances which might suggest that the terms of permit be varied.

Any variation to a permit be supported by contestable data.

Marama Irrigation Co Ltd (David Robert Hammond) - Submitter #: 30 Submission Point : 37

Marama Irrigation Co Ltd oppose the limiting of water permits to a 10 year term.

Given the amount of investment made by Marama Irrigation Co shareholders over the initial 10 year period we require sufficient certainty of a longer consent period to enable full development and planning of our existing water permit to occur.

Relief sought: A minimum of 20 years as has been noted in the 3rd Report of the Land & Water Forum that has been developed after a very extensive study and consultation process with all interested parties throughout NZ.

Marlborough Province of Federated Farmers of NZ (Michael Bennett) - Submitter #: 59
Submission Point : 89

Federated Farmers acknowledge Council's efforts to address over-allocation. It does not however believe that the proposed change provides an appropriate mechanism to achieve this.

The section 32 analysis of Plan Change 61 lacks appropriate supporting information, and in particular lacks the depth of understanding that would have been achieved by wider involvement of industry and affected community members. It is not appropriate to rely on the assumption that Item 1 is a minor change that does not affect the functionality of the Wairau/Awatere Resource Management Plan.

The proposed change will make it more difficult to raise capital for further development, and be unfair to those who have invested substantially in irrigation systems. It will also create significant uncertainty for schemes that rely on community owned water storage and

Relief sought: If Item 1 of Plan Change 61 to the Wairau/Awatere Resource Management Plan can not be withdrawn, extend the term of water permits to 20 years, with special provision of up to 30 years for abstraction via community water infrastructure including storage.

Marlborough Vegetable and Process Growers Assoc (Andrew Jones) - Submitter #: 29
Submission Point : 36

There is a substantial financial investment in establishing irrigation infrastructure, development and technology to utilise water efficiency. These are long term investments and require certainty of access to water over a 20 to 30 year period to safe guard the investment required.

The Water Allocation Plan is currently under review as part of the Wairau/Awatere Regional Policy Statement Review. This proposed amendment through a Plan change would be premature and pre-emptive while the Water Allocation Review is yet to be completed.

Relief sought: Delete entirely Item 1 "Term of Water Permits for the Taking of Water from the proposed Plan Change - Schedule of Changes".

No further action on this item to be contemplated until the completion of the Water Allocation Plan Review.

Marlborough Winegrowers Association Incorporated (Marcus Pickens) - Submitter #: 81
Submission Point : 122

The proposed change to shorten consent terms will put wine industry participants using this resource under undue financial pressure. There is significant financial investment in the establishment of water infrastructure and significant development costs to establish viticulture enterprises. Such developments are long term investments and as such require long term water certainty over a 20 - 30 year time frame to underpin these investments.

The third report of the Land and Water forum has signalled that Councils should grant consents for a minimum of 20 years and that longer durations should become the norm. A shorter consent term will increase the frequency of renewals and this is a costly and time consuming

Relief sought: Delete entirely Item 1 "Term of Water Permits for the Taking of Water from the Proposed Plan Change - Schedule of Changes" That no further action on this item be contemplated until the completion of the Water Allocation Plan Review. Further consultation with the Marlborough Water Forum is undertaken and MWGA is kept informed of progress.

Royal Forest and Bird Protection Society NZ (Inc) (Debs Martin) - Submitter #: 80
Submission Point : 116

The submitter supports the proposed changes for the reasons outlined in the report.

Relief sought: Retain proposed change

Starborough Farming Company (Andrew Jones) - Submitter #: 76 Submission Point : 109

The submissions opposes the maximum term of a resource consent to take and use water being limited to 10 years.

Intensive land use requires substantial investment in establishing irrigation infrastructure. These developments are long-term investments that require certainty of access to water over a 20 to 30 year permit term to safeguard this commitment.

The Land and Water Forum has signalled that Councils should grant consents for a minimum of 20 years and that longer durations should become the norm.

The Water Allocation Plan is currently under review as part of the Wairau/Awatere Resource Management Plan - Regional Policy Statement Review. This proposed amendment would be premature and pre-emptive while the Water Allocation Review is yet to be completed.

Relief sought: Delete entirely Item 1 "Term of Water Permits for the Taking of Water from the Proposed Plan Change - Schedule of Changes"

No further action on this item be contemplated until the completion of the Water Allocation Plan Review.

Trelawne Farm Limited (Richard Guy Lissaman) - Submitter #: 32 Submission Point : 39

There is a substantial financial investment in establishing irrigation infrastructure, development and technology to utilise water efficiency. These are long term investments and require certainty of access to water over a 20 to 30 year period to safe guard the investment required.

The Water Allocation Plan is currently under review as part of the Wairau/Awatere Regional Policy Statement Review. This proposed amendment through a Plan change would be premature and pre-emptive while the Water Allocation Review is yet to be completed.

Relief sought: Delete entirely item 1 "Term of Water Permits for the Taking of Water from the Proposed Plan Change - Schedule of Changes"

TrustPower Limited (Laura Marra) - Submitter #: 19 Submission Point : 23

While TrustPower agrees that a 30 year consent term may not be appropriate in all circumstances, it is TrustPowers view that in some circumstances a term greater than 10 years is appropriate. Particularly where significant investment is required, such as the case for infrastructure development.

Consent authorities have the discretion under current legislation to limit the term for which a consent is granted. Limiting all water permits to a maximum term of 10 years may not always be in the best interests of achieving sustainable management and promoting such a limit on consent term is arbitrary.

Council should make a decision on the appropriate length of time for individual permits on a case-by-case basis.

Relief sought: That, rather than specifying a timeframe the Council will grant water permits for the policy is reworded so that the term of individual water permits can be considered on a case-by-case basis.

van Asch Irrigation Limited (Geoffrey Edward van Asch) - Submitter #: 57 Submission Point :

The submissions opposes the proposed plan change.

There is significant financial investment in the establishment of water infrastructure plus ongoing costs of delivering water to vines. Such developments are long term investments that require long term water certainty.

Shorter consent terms will increase the frequency of renewals (depending on consent number and cycles) and this is a costly and time consuming process.

Relief sought: Delete entirely Item 1 "Term of Water Permits for the Taking of Water from the Proposed Plan Change - Schedule of Changes"

No further action on this item be contemplated until the completion of the Water Allocation Plan Review.

Appendix Three

Possible Options

- Withdrawal of Change – effect is retention of status quo – satisfactory for no-one
- No term specified but policy wording amended along the lines that term will depend on sustainability for any particular water resource
- Another option is for policy wording to express that any agreed change is a short-term solution to hold position until full review in detailed Plan Review process, or in even later more considered series of changes as better hydrological and long-term rainfall replenishment information available.

Possible Term Solutions

- Reduced term for some particular situations, e.g.:
 - Over allocated resources
 - Full resources
- Longer term for other resources with proven reliable sustainable reserves – these would need to be identified based on hard evidence – often expensive to obtain or difficult to achieve agreement between experts.
- Alternatively more general policy wording amended to state that term would be reduced where long-term sustainability of the resource uncertain, but with possibility of longer term either as part of rule based allocation method at Plan reviews or where consent could be demonstrated to be sustainable taking into account existing and long term potential pressures on resource, and possible variations in long-term rainfall replenishment trends.

Appendix Four

The following contains an addition to the notified provisions as discussed during the pre-hearing meeting. The addition is shown in red.

Proposed Change

- (i) Amend Policy 6.3.1.1.3 as follows:

~~To increase certainty for water users by issuing water permits for 30 year terms, subject to reviews of the resource every 5 or 10 years to ensure ongoing sustainable management of the water resource.~~

To issue water permits to take and use water for a period of 10 years where water resources are either fully allocated or over-allocated relative to the allocation limits set in this Plan or where water is to be taken from a resource for which no SFR has been established in the Plan.

- (ii) Amend the explanation to the policies under Section 6.3.1 as follows:

~~Domestic water extraction up to 10 m³ per day is exempt from requirements for metering or water permits. For non-domestic extraction the term of water permits will be 10 years where the cumulative volume of water allocated through individual water permits has reached the Class A and (where there is a Class B limit set) Class B allocation limits. This will allow the adverse effects of abstraction in a situation of full or over-allocation to be addressed in a timely fashion. A 10 year term is also appropriate where water is to be taken from a water resource for which no SFR has been established due to the uncertainty over the cumulative effects of water extraction in these circumstances. be issued for 30 year terms for all new and renewed water permits, but will be subject to.~~

The full and over allocation of water resources are issues being addressed through the review of the Wairau/Awatere Resource Management Plan. A water allocation framework that directs how these issues are to be resolved will be notified before December 2014, as required by the National Policy Statement Freshwater Management 2011. It is likely that the implementation of this framework will remove the need to limit duration in the manner set out in Policy 6.3.1.1.3.

Resource reviews will be undertaken every 5 or 10 years depending on location, to ensure ongoing sustainable and equitable management of the resource. The interval of resource review is related to the level of understanding for the particular resource. The longer the interval between reviews for example 10 years, the greater the understanding of the resource and less potential there is for adverse effects.

Appendix 3

ITEM 1 POLICY ON TERM OF WATER PERMITS TO TAKE AND USE WATER

Amend Policy 6.3.1.1.3 as follows:

~~To increase certainty for water users by issuing water permits for 30-year terms, subject to reviews of the resource every 5 or 10 years to ensure ongoing sustainable management of the water resource.~~

To issue water permits to take and use water for a period of 10 years where water resources are either fully allocated or over-allocated relative to the allocation limits set in this Plan or where water is to be taken from a resource for which no SFR has been established in the Plan.

Amend the explanation to the policies under Section 6.3.1 as follows:

~~Domestic water extraction up to 10 m³ per day is exempt from requirements for metering or water permits. For non-domestic extraction the term of water permits will be 10 years where the cumulative volume of water allocated through individual water permits has reached the Class A and (where there is a Class B limit set) Class B allocation limits. This will allow the adverse effects of abstraction in a situation of full or over-allocation to be addressed in a timely fashion. A 10 year term is also appropriate where water is to be taken from a water resource for which no SFR has been established due to the uncertainty over the cumulative effects of water extraction in these circumstances. be issued for 30-year terms for all new and renewed water permits, but will be subject to.~~

The full and over allocation of water resources are issues being addressed through the review of the Wairau/Awatere Resource Management Plan. A water allocation framework that directs how these issues are to be resolved will be notified before December 2014, as required by the national Policy Statement Freshwater Management 2011. It is likely that the implementation of this framework will be remove the need to limit duration in the manner set out in Policy 6.3.1.1.3.

~~Resource reviews will be undertaken every 5 or 10 years depending on location, to ensure on-going sustainable and equitable management of the resource. The interval of resource review is related to the level of understanding for the particular resource. The longer the interval between reviews for example 10 years, the greater the understanding of the resource and less potential there is for adverse effects.~~

ITEM 2 DEFINITION OF 'FAMILY FLAT'

Insert the following definition of "Family Flat" into Chapter 26.

Definitions (Chapter 26)

Means a building 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 3 SETBACKS FROM WATER BODIES FOR REASONS OTHER THAN AVOIDING FLOOD HAZARD

- (i) Replace the heading "Hazards" with "Flood Protection/ Riparian Management" into the heading for the following rules, and delete the heading "Flood Protection /Riparian Management" from the following rules:

3.1 Rural Residential (Chapter 31)

Rule 31.1.6 ~~Hazards~~ Flood Protection/ Riparian Management

Rule 31.1.6.1 ~~Flood Protection/ Riparian Management~~

3.2 Urban Residential (Chapter 32)

Rule 32.1.5 ~~Hazards~~ Flood Protection/ Riparian Management

Rule 32.1.5.1 ~~Flood Protection/ Riparian Management~~

3.3 Township Residential (Chapter 33)

Rule 33.1.5 ~~Hazards-Flood Protection/ Riparian Management~~

Rule 33.1.5.1 ~~Flood Protection/ Riparian Management~~

3.4 Neighbourhood Business (Chapter 36)

Rule 36.1.5 ~~Hazards-Flood Protection/ Riparian Management~~

Rule 36.1.5.1 ~~Flood Protection/ Riparian Management~~

3.5 Industrial (Chapter 37)

Rule 37.1.7 ~~Hazards-Flood Protection/ Riparian Management~~

Rule 37.1.7.1 ~~Flood Protection/ Riparian Management~~

3.6 Rural Township (Chapter 38)

Rule 38.1.5 ~~Hazards-Flood Protection/ Riparian Management~~

Rule 38.1.5.1 ~~Flood Protection/ Riparian Management~~

(ii) Amend the following rules as shown:

3.7 Rural Residential (Chapter 31)

Rule 31.1.6.2

No building activity or earthworks shall take place as a Permitted Activity within ~~or having any adverse effect upon any natural hazard area identified~~ as a flood hazard by this Plan.

3.8 Urban Residential (Chapter 32)

Rule 32.1.5.2

No building activity or earthworks shall take place as a Permitted Activity within ~~or having any adverse effect upon any natural hazard area identified~~ as a flood hazard by this Plan.

Amend the 12th bullet point in Rule 32.4.1 to:

Any activity listed as a permitted activity and establishing on ~~or impacting on any~~ flood hazard area identified ~~on the Planning Maps as a hazard area by this plan.~~

3.9 Township Residential (Chapter 33)

Rule 33.1.5.2

No building activity or earthworks shall take place as a Permitted Activity within ~~or having any adverse effect upon any natural hazard area identified~~ as a flood hazard by this Plan.

3.10 Neighbourhood Business (Chapter 36)

Rule 36.1.5.2

No building activity or earthworks shall take place as a Permitted Activity within ~~or having any adverse effect upon any natural hazard area identified~~ as a flood hazard by this Plan.

3.11 Industrial (Chapter 37)

Rule 37.1.7.2

No building activity or earthworks shall take place as a Permitted Activity within ~~or having any adverse effect upon any natural hazard area identified~~ as a flood hazard by this Plan.

3.12 Rural Township (Chapter 38)

Rule 38.1.5.2

No building activity or earthworks shall take place as a Permitted Activity within ~~or having any adverse effect upon any natural hazard area identified~~ as a flood hazard by this Plan.

ITEM 4 REMOVE REFERENCES TO A 'HAZARDS REGISTER' AS NONE EXISTS

Delete the advisory note for the hazards register in the following plan provisions:

4.1 Rural Residential (Chapter 31)

31.1.6.2 No building activity or earthworks shall take place as a Permitted Activity within or having any adverse effect upon any natural hazard area identified by this Plan.

~~Hazards Register~~

~~Note:~~

~~The Council maintains a Hazard Register, which provides public information on properties where natural hazards have been specifically identified. (The Register is a 'living' document which is progressively updated). Property developers are advised to consult this register.~~

4.2 Urban Residential (Chapter 32)

32.1.5.2 No building activity or earthworks shall take place as a Permitted Activity within or having any adverse effect upon any natural hazard area identified by this Plan.

~~Hazards Register~~

~~Note:~~

~~The Council maintains a Hazard Register, which provides public information on properties where natural hazards have been specifically identified. (The Register is a 'living' document which is progressively updated). Property developers are advised to consult this register.~~

4.3 Township Residential (Chapter 33)

- 33.1.5.2 No building activity shall take place as a Permitted Activity within or having any adverse effect upon any natural hazard area identified by this Plan.

~~Hazards Register~~

~~Note:~~

~~The Council maintains a Hazard Register, which provides public information on properties where natural hazards have been specifically identified. (The Register is a 'living' document which is progressively updated). Property developers are advised to consult this register.~~

4.4 Neighbourhood Business (Chapter 36)

- 36.1.5.2 No building activity shall take place as a Permitted Activity within or having any adverse effect upon any natural hazard area identified by this Plan.

~~Hazards Register~~

~~Note:~~

~~The Council maintains a Hazard Register, which provides public information on properties where natural hazards have been specifically identified. (The Register is a 'living' document which is progressively updated). Property developers are advised to consult this register.~~

4.5 Industrial (Chapter 37)

- 37.1.7.2 No building activity shall take place as a Permitted Activity within or having any adverse effect upon any natural hazard area identified by this Plan.

~~Hazards Register~~

~~Note:~~

~~The Council maintains a Hazard Register, which provides public information on properties where natural hazards have been specifically identified. (The Register is a 'living' document which is progressively updated). Property developers are advised to consult this register.~~

4.6 Rural Township (Chapter 38)

- 38.1.7.2 No building activity shall take place as a Permitted Activity within or having any adverse effect upon any natural hazard area identified by this Plan.

~~Hazards Register~~

~~Note:~~

~~The Council maintains a Hazard Register, which provides public information on properties where natural hazards have been specifically identified. (The Register is a 'living' document which is progressively updated). Property developers are advised to consult this register.~~

ITEM 5 CONTROLLED ACTIVITY RULE FOR DEVELOPMENT

- (i) Delete the following rules from the list of controlled activities listed in the following rules, and delete the associated standards and terms as follows:

5.1 Rural (Chapter 30)

Rule 30.2.1 Application must be made for a resource consent for a Controlled Activity for the following:

- The sale of farm produce from a rural selling place.
- Excavation exceeding 1,000 m³ on land over 20° slope .
- The discharge of liquid wastes and animal effluent.
- Relocated buildings over 36m² in area.
- Temporary Military Training Activities (not a permitted activity).
- ~~Any development as defined in Rule 29.2.19.2 and 29.2.19.3 of Standard Requirements for Subdivision and Development.~~

~~Rule 30.2.8 Any development as defined in Rule 29.2.19.2 and 29.2.19.3 of Standard Requirements for Subdivision and Development~~

a. ~~30.2.8.1 Standards and Terms~~

~~All development must comply fully with the rules for Permitted Activities for the zone and all other relevant rules.~~

b. ~~30.2.8.2 Matters Over Which the Council Will Exercise Control~~

~~The Council reserves control over and may impose conditions with respect to development levies.~~

5.2 Rural Residential (Chapter 31)

~~Rule 31.2.1 Application must be made for a resource consent for a Controlled Activity for the following:~~

- ~~Any development as defined in Rule 29.2.19.2 and 29.2.19.3 of Standard Requirements for Subdivision and Development~~

c. ~~Rule 31.2.2 Standards and Terms~~

~~d. 31.2.2.1 All development must comply fully with the rules for permitted activities for the zone and all other relevant rules.~~

e. ~~Rule 31.2.3 Matters Over Which the Council Will Exercise Control~~

~~f. 31.2.3.1 The Council reserves control over and may impose conditions with respect to development levies.~~

5.3 Urban Residential (Chapter 32)

Rule 32.2.1 Application must be made for a resource consent for a Controlled Activity for the following:

- Relocated buildings of greater than 36 m² in area.

- ~~Any development as defined in Rule 29.2.19.2 and 29.2.19.3 of Standard Requirements for Subdivision and Development.~~

~~g. Rule 32.2.4 Any development as defined in Rule 29.2.19.2 and 29.2.19.3 of Standard Requirements for Subdivision and Development~~

~~h. 32.2.4.1 Standards and Terms~~

~~All development must comply fully with the rules for Permitted Activities for the zone and all other relevant rules.~~

~~i. 32.2.4.2 Matters Over Which the Council Will Exercise Control~~

~~The Council reserves control over and may impose conditions with respect to development levies.~~

5.4 Central Business (Chapter 35)

Rule 35.2.1 Application must be made for a resource consent for a Controlled Activity for the following:

- Residential Activity.
- ~~Any development as defined in Rule 29.2.19.2 and 29.2.19.3 of Standard Requirements for Subdivision and Development.~~

~~j. Rule 35.2.4 Any development as defined in Rule 29.2.19.2 and 29.2.19.3 of Standard Requirements for Subdivision and Development~~

~~k. 35.2.4.1 Standards and Terms~~

~~All development must comply fully with the rules for Permitted Activities for the zone and all other relevant rules.~~

~~l. 35.2.4.2 Matters Over Which the Council Will Exercise Control~~

~~The Council reserves control over and may impose conditions with respect to development levies.~~

5.5 Neighbourhood Business (Chapter 36)

Rule 36.2.1 Application must be made for a resource consent for a Controlled Activity for the following:

- Residential activity (except in the case of the site scheduled in Appendix G).
- Relocated buildings.
- ~~Any development as defined in Rule 29.2.19.2 and 29.2.19.3 of Standard Requirements for Subdivision and Development.~~

~~m. Rule 36.2.4 Any development as defined in Rule 29.2.19.2 and 29.2.19.3 of Standard Requirements for Subdivision and Development~~

~~n. 36.2.4.1 Standards and Terms~~

~~All development must comply fully with the rules for Permitted Activities for the zone and all other relevant rules.~~

~~e. 36.2.4.2 Matters Over Which the Council Will Exercise Control~~

~~The Council reserves control over and may impose conditions with respect to development levies.~~

5.6 Industrial (Chapter 37)

Rule 37.2.1 Application must be made for a resource consent for a Controlled Activity for the following:

- Subject to Rule 37.1.6.6 the discharge into air from an industrial or trade premises, or from a non-moving source that is not an industrial or trade premise, of the products of combustion from fuel burning equipment used for generating heat or electric power using:
 - a) methane or natural or liquefied petroleum gas for the purposes of generating heat or electric power at a rate not exceeding 50 Megawatts; or
 - b) untreated wood, coal or oil, excluding waste oil, for the purposes of generating heat or electric power at a rate not exceeding 10 Megawatts

where the limits specified in a) and b) above apply to the cumulative generated heat or electric power produced by the specified fuel within the same premises.

- ~~• Any development as defined in Rule 29.2.19.2 and 29.2.19.3 of Standard Requirements for Subdivision and Development~~

~~p. Rule 37.2.4 Any development as defined in Rule 29.2.19.2 and 29.2.19.3 of Standard Requirements for Subdivision and Development~~

~~q. 37.2.4.1 Standards and Terms~~

~~All development must comply fully with the rules for Permitted Activities for the zone and all other relevant rules.~~

~~r. 37.2.4.2 Matters Over Which the Council Will Exercise Control~~

~~The Council reserves control over and may impose conditions with respect to development levies.~~

5.7 Rural Township (Chapter 38)

Rule 38.2.1 Application must be made for a resource consent for a Controlled Activity for the following:

- Residential activity.
- Relocated buildings.
- ~~• Any development as defined in Rule 29.2.19.2 and 29.2.19.3 of Standard Requirements for Subdivision and Development.~~

~~s. Rule 38.2.5 Any development as defined in Rule 29.2.19.2 and 29.2.19.3 of Standard Requirements for Subdivision and Development~~

~~t. 38.2.5.1 Standards and Terms~~

~~All development must comply fully with the rules for Permitted Activities for the zone and all other relevant rules.~~

~~u. 38.2.6.2 Matters Over Which the Council Will Exercise Control~~

~~The Council reserves control over and may impose conditions with respect to development levies.~~

5.8 Port Zone (Chapter 40)

Rule 40.2.1 Application must be made for a resource consent for a Controlled Activity with respect to the following:

- Any buildings, structures and services for port activities in the coastal marine area not provided for as a Permitted Activity.
- Any activity which is carried out for the purpose of removal, placement, or redistribution of seabed material, sand, marine debris, litter, or dead seaweed or depositing these or other materials for the purpose of maintaining the seabed for port activities or for re-contouring or reshaping of the foreshore.
- Discharges to the coastal marine area (other than the discharge of human effluents) associated with the operational needs of the terminal.
- ~~Any development as defined in Rule 29.2.19.2 and 29.2.19.3 of Standard Requirements for Subdivision and Development.~~

~~v. Rule 40.2.6 Any development as defined in Rule 29.2.19.2 and 29.2.19.3 of Standard Requirements for Subdivision and Development~~

~~w. 40.2.6.1 Standards and Terms~~

~~All development must comply fully with the rules for Permitted Activities for the zone and all other relevant rules.~~

~~x. 40.2.6.2 Matters Over Which the Council Will Exercise Control~~

~~The Council reserves control over and may impose conditions with respect to development levies.~~

ITEM 6 CLARIFY THAT UTILITY PROVISIONS APPLY TO “REQUIRING AUTHORITY”

Insert the following definition of “utility” into Chapter 26 of the Plan:

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

ITEM 7 SUBDIVISION CHAPTER (CHAPTER 28)

7.1 RECONCILE SUBDIVISION STANDARDS FOR TOWNSHIP RESIDENTIAL ZONE WITH SITE DENSITY STANDARDS

Amend the Threshold Lot Area for Township Residential (Renwick) in Table 28.2.2, as follows:

Zone	Allotment Type W = with Sewerage Reticulation WO = Without	Environmental Assessment Threshold Lot Area m ² ¹ see note below	Environmental Assessment Threshold Building Platform Shape Factor ² see note below	Environmental Assessment Threshold Frontage Metres ^{3 4} see note below	Qualification
Township Residential (Renwick)	Front W	400450	15 metre diameter circle	15	
	Front WO	8001000	15 metre diameter circle	15	
	Rear W	500450	15 metre diameter circle	NA	Access requirements apply, refer 28.2.3
	Rear WO	1000	15 metre diameter circle	NA	Access requirements apply, refer 28.2.3

7.2 CLARIFY THAT BUILDING PLATFORMS MUST BE FREE FROM EASEMENTS AND YARD SETBACKS

Insert the following text to the end of the existing note 2 to Tables 28.2.2 and 28.3.2 of Chapter 28 Subdivisions:

2 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.

7.3 REFERENCES TO SECTION 321 OF THE LOCAL GOVERNMENT ACT 1974

(i) Delete Note 3 from Rule 28.2.2 as follows:

1 Lot areas prescribed are net areas, exclusive of access.

2 ...

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 28.3.2 as follows:

1 Lot areas prescribed are net areas, exclusive of access.

2 ...

~~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~~

7.4 REMOVE REFERENCES TO COMPLIANCE WITH ASSESSMENT MATTERS FROM THE RULES RELATING TO CONTROLLED AND DISCRETIONARY SUBDIVISION ACTIVITIES

Subdivision Rule 28.2

Delete the reference to assessment criteria, and Rule 28.2.4 and Rule 28.2.5, in Amend Rule 28.2 (Controlled Activities) as follows

If subdivision proposals for these zones meet all of the following standards ~~and assessment criteria (Rules 28.2.2, 28.2.3, 28.2.4)~~ the Council will reserve control over the matters prescribed in Rule 28.2.5.

Subdivision Rule 28.3

Delete the reference to assessment criteria, and Rule 28.3.5 Rule 28.3 (Discretionary Subdivision Activity), as follows:

Generally, subdivision in these zones is a Discretionary Activity if the proposal meets all of the standards specified. ~~Applications will generally be considered in the context of the assessment criteria specified in Rule 28.3.5. There are two exceptions to these general requirements, both involve a subdivision component with Limited Discretionary status. They involve Rule 28.3.3, "Standards for Access to Rear Lots", and Rule 28.3.4, "Limits to the Council's Discretion", which includes matters that relate to "State Highway", in Rule 28.3.4.2.~~

ITEM 8 INCLUDE RULES FOR THE DAMMING OF WATER

10.1 General Rules (Chapter 27)

Add 'Damming of Water' to the title of Rule 27.1.6 as follows:

Rules for the Construction of a Dam and the Associated Damming of Water

Amend the text that follows Rule 27.1.6, as follows:

A consent for the construction of any dam, on-stream or off-stream, under Sections 9 or 13 of the RMA does not cover the taking, use, ~~damming~~ or diversion of water controlled under Section 14 of the Act. A separate water permit will be required for the taking, use, or diversion ~~or damming~~ of water associated with a dam and the damming of water.

Amend Rule 27.1.6.1 to include the damming of water, as follows:

Unless expressly limited elsewhere, the construction or alteration of a small dam, and the associated damming of water, is a Permitted Activityies where ~~#-they~~ meets the following conditions.

Amend Rule 27.1.6.2 to include the damming of water, as follows:

The construction or alteration of any dam, and the associated damming of water, which cannot comply with the conditions for a Permitted Activity.

Amend **Rule 27.1.6.3** to include the damming of water, as follows:

The construction or alteration of a dam on a water resource listed below, including the associated damming of water:

Amend **Rule 27.1.6.4** to include the damming of water, as follows:

The construction or alteration of a dam on a water resource listed below, including the associated damming of water:

ITEM 9 SUBDIVISIONS IN THE CONSERVATION ZONE

Delete "subdivision" from the list of discretionary activities in Rule 41.2.1 for the Conservation Zone, as follows:

41.2.1 Application must be made for a resource consent for a Discretionary Activity for the following:

- ~~Subdivision~~

ITEM 10 WINERIES, DISTILLERIES AND BREWERIES IN RURAL ENVIRONMENTS

(i) Delete the following Definition from Chapter 26 (Definitions)

~~*WINERIES – premises for the retail sale of wine, associated wine promotional material and associated dining facilities*~~

(ii) Add the following definition to Chapter 26 (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 11 AMENDMENTS TO DEFINITION OF "HOME OCCUPATION"

Definitions (Chapter 26)

Amend the definition of "Home Occupation" in Chapter 26 (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 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 12 INCLUDE DRAINAGE CHANNELS IN THE RULES REQUIRING DISCHARGE SETBACKS FROM WATER BODIES

Amend the following rules as shown:

12.1 Rural (Chapter 30)

Rule 30.1.8.2.4 g)

The discharge shall not be within 30 metres of any surface water body or drainage channel.

Rule 30.1.8.2.5 e)

The discharge shall not be within 30 metres of any surface water body or drainage channel.

Rule 30.1.8.4.1

The discharge shall not be within 100 metres of a surface water body or drainage channel or a well used for domestic water supply

Rule 30.1.8.9.4

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

Rule 30.1.8.10.7

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

Rule 30.2.5.1.2

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

Rule 30.4.3.4.1 e)

Discharged material shall not be placed within 1500 metres of a surface waterbody or drainage channel.

12.2 Rural Residential (Chapter 31)

Rule 31.1.3.2.4 g)

The discharge shall not be within 30 metres of any surface water body or drainage channel.

Rule 31.1.3.2.4.2 e)

The discharge shall not be within 30 metres of any surface water body or drainage channel.

12.3 Township Residential (Chapter 33)

Rule 33.1.7.2.4 g)

The discharge shall not be within 30 metres of any surface water body or drainage channel.

Rule 33.1.7.2.5 e)

The discharge shall not be within 30 metres of any surface water body or drainage channel.

12.4 Rural Township (Chapter 38)

Rule 38.1.8.2.4 g)

The discharge shall not be within 30 metres of any surface water body or drainage channel.

Rule 38.1.8.2.4.2 e)

The discharge shall not be within 30 metres of any surface water body or drainage channel.

12.5 Conservation Zone (Chapter 41)

Rule 41.1.3.2.3

The long drop toilet is not located within 50 metres of any surface water body or drainage channel.

Rule 41.1.3.3.4 g)

The discharge shall not be within 30 metres of any surface water body or drainage channel.

Rule 41.1.3.3.5 e)

The discharge shall not be within 30 metres of any surface water body or drainage channel.

12.6 District Recreation (Chapter 42)

Rule 42.1.4.2.4 g)

The discharge shall not be within 30 metres of any surface water body or drainage channel.

Rule 42.1.4.2.5 e)

The discharge shall not be within 30 metres of any surface water body or drainage channel.

ITEM 13 EARTHWORK VOLUME LIMIT EXEMPTIONS

Amend Rule 31.1.7.1.3 and Rule 35.1.6.1.3 as follows:

14.1 Rural Residential (Chapter 31)

Rule 31.1.7.1.3 Exemptions

a) Filling or excavation associated with the construction or maintenance of flood protection works, including stopbanks or retention basins constructed by or on behalf of the Council.

b) Any works involving the installation, repair or replacement of any network utility structure.

c) ~~Support structures for any permitted or approved buildings and signs; or for~~ Any earthworks associated with the construction of a fence.s and works.

d) Any earthworks carried out in accordance with an approved subdivision.

14.2 Central Business (Chapter 35)

Rule 35.1.6.1.3 Exemptions

- a) Filling or excavation associated with the construction or maintenance of flood protection works, including stopbanks or retention basins constructed by or on behalf of the Council.*
- b) Any works involving the installation, repair or replacement of any network utility structure.*
- c) ~~Support structures for any permitted or approved buildings and signs; or for~~ Any earthworks associated with the construction of a fences and works*
- d) Any earthworks carried out in accordance with an approved subdivision.*

ITEM 14: GARDEN MAINTENANCE

15.1 General Rules (Chapter 27)

Insert a new rule as follows:

27.6 Garden maintenance

27.6.1 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 3 and 4 Zones it complies with Rules 30.1.6 or 30.1.7

ITEM 15: Map 131 Amendments

Amend Map 131 as shown.

Legend

-  Land Parcel
-  Conservation
-  Deferred Township Residential
-  Rural Four
-  Township Residential
-  Coastal Marine Area



RARANGI BEACH ROAD

1:4,000

**Current WAMP Zone
(September 2012)**



RARANGI BEACH ROAD



1:4,000

 Proposed Plan Change Area

