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**MARLBOROUGH  
DISTRICT COUNCIL**



Only Marlborough

14 April 2023

Record No: 2372809  
File Ref: D050-001-E01  
Ask For: Nicole Chauval

## **Notice of Committee Meeting – Thursday 20 April 2023**

A meeting of the Environment & Planning Committee will be held in the Council Chambers, 15 Seymour Street, Blenheim on Thursday, **20 April 2023 commencing at 9.00 am.**

### **BUSINESS**

As per Agenda attached.

MARK WHEELER  
**CHIEF EXECUTIVE**





**Meeting of the ENVIRONMENT & PLANNING COMMITTEE  
to be held in the Council Chambers, District Administration Building, Seymour Street,  
on THURSDAY, 20 APRIL 2023 commencing at 9.00 am**

**Committee**

Clr G A Hope (Chairperson)  
Clr B A Faults (Deputy)  
Clr J A Arbuckle  
Clr A R Burgess  
Clr R J Innes  
Clr B J Minehan  
Clr T P Sowman  
Mayor N P Taylor  
Mr S Harvey (Rural Representative)  
Iwi Representative (to be advised)

**Departmental Head**

Mr H Versteegh (Environmental Science and Policy Group Manager)  
and Ms G Ferguson (Consents and Compliance Group Manager)

**Staff**

Nicole Chauval (Committee Secretary)

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**In Public**

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## **1. Apologies**

No apologies received.

## **2. Declaration of Interests**

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

### **3. Densification in the Residential 1 Zone**

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(The Chair)

1. Presentation by Architect Tim Barton on the 'Medium density housing in the walk-to-the-shops part of Blenheim - allowing densification in the Residential 1 Zone'. (10 minutes)
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#### **RECOMMENDATION**

**That the representation be received.**

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## 4. Resource Hearing Sub-Committee and or Commissioner Decisions

(also refer to separately circulated attachment)

### 1. Resource Hearing Sub-Committee Hearings held on 8 April 2022 (U210573 and U210920)

A full copy of the Decision is **separately attached** to the Agenda.

A summary of this Decision follows:

#### Schedule of Resource Hearing Sub-Committee Decisions

Pages	Date	Subject	Decision
1 - 38	8 April 2022	Michael Francis and Rachael May Louise Doherty - Application for Resource Consent - Land Use (Activity) and Subdivision (Allotment Creation) and S221 - Change or Cancellation of Consent Notice Conditions - 172 Wither Road, Witherlea (U210573 and U210920)	<b>GRANTED</b> Land Use (Activity) and Subdivision (Allotment Creation) to undertake earthworks in and within 8 metres of a drainage channel and to remediate soil on the site legally described as Lot 1 DP 401159; and to subdivide Lot 1 DP 401159 into two allotments (U210573).  Change or Cancellation of Consent Notice Conditions to amend condition 3 of Consent Notice 10211377.1, as it applies to Lot 1 DP 401159 (U210920)

### 2. Resource Hearing Commissioner Hearings held on 26-27 April 2022 (U190438), 13 September 2022 (U210154), 20 September 2022 (U220381), 21 September 2022 (U080226), 26 October 2022 (U060329), 29-30 November 2022 (U180586), 13 December 2022 (U220543) and 21 February 2023 (U220745)

Full copies of the Decisions are **separately attached** to the Agenda.

A summary of these Decisions follows:

#### Schedule of Resource Hearing Commissioner Decisions

Pages	Date	Subject	Decision
39 - 237	26-27 April 2022	The New Zealand King Salmon Company Limited - Application for Resource Consent – Coastal Permit (Marine Farm) - North of Cape Lambert, North Marlborough (U190438)	<b>GRANTED</b> Coastal Permit (Marine Farm) to establish and operate two salmon farms within a 1,000 hectares site, on the site coordinates shown as points 5-8 (the south farm) and points 9-11 (the north farm) and to install and maintain cardinal marks shown as points 1-4 on the as detailed on the OCEL drawing SK-051103-521, Rev 6, dated 15 June 2022.
238 - 252	13 September 2022	Hille Trustee Limited - Application for Resource Consent - Land Use (Dam), Water Permit (Dam Water), Land Use x2 (Land Disturbance) and Water Permit x2 (Divert Water) - 97 Wrekin Road, Fairhall (U210154)	<b>GRANTED</b> Land Use (Dam), Water Permit (Dam Water), Land Use (Land Disturbance) and Water Permit (Divert Water) to construct a 7.1 metre high storage reservoir located on Lot 2 DP 429424; to dam up to 23,000 cubic metres of water within a storage reservoir located on Lot 2 DP 429424; to undertake excavations within 8 metres of Fairhall River and to undertake filling in excess of 1,000 cubic metres on Lots 1 and 2 DP 429424 and Lot 2 DP 532997; and to divert sub-surface water beneath a storage reservoir and to divert surface water runoff via a shallow drain on Lot 2 DP 429424.
253 - 280	20 September 2022	Marlborough District Council - Application for Resource Consent – Land Use (Activity) - Rema Reserve, 40 Hope Drive, Witherlea, Blenheim (U220381)	<b>GRANTED</b> Land Use (Activity) to remove a Notable Tree (Number 189) located on Rema Reserve, Witherlea on Lot 107 DP 308447.
281 - 292	21 September 2022	Marlborough District Council - Application for Resource Consent - s136 Application to transfer water - State Highway 6, Havelock Rural (U080226)	<b>GRANTED</b> s136 Application to transfer water.

293 - 332	26 October 2022	Philip John Woolley - Application for Resource Consent - s136 Application to transfer water - Hunter Road, Tuamarina (U060329)	<b>GRANTED</b> s136 Application to transfer water.
333 - 358	29-30 November 2022	Wainui Green 2015 Limited and TWO MF Limited (Pig Bay Partnership)- Application for Resource Consent - Coastal Permit (Marine Farm) - Pig Bay, Te Anamāhanga/Port Gore (U180586)	<b>GRANTED</b> Coastal Permit (Marine Farm) (replacing U941457 and MPE122) for the continuation, using conventional surface longline methods, of an existing 6.0 hectare marine farm (site 8167) located at Papatua, in Pig Bay.
359 - 381	13 December 2022	CMT Group New Zealand Limited - Application for Resource Consent - Land Use (Gravel Removal) and Land Use (Land Disturbance) - 3093 Waihopai Valley Road, Waihopai Valley (U220543)	<b>GRANTED</b> Land Use (Gravel Removal) and Land Use (Land Disturbance) to operate a quarry extracting up to 20,000 cubic metres of gravel per year on Lot 1 DP 495563; and to operate a clean-fill site on Lot 1 DP 495563.
382 - 408	21 February 2023	Strathdullan Properties Limited - Application for Resource Consent - Land Use (Activity) and Subdivision - 6 Buick Street, Blenheim (U220745)	<b>GRANTED</b> Land Use (Activity) and Subdivision to erect a duplex (two adjoined two-storey dwellings) on Lot 7 DP 3631, and to subdivide the dwellings on Lot 7 DP 3631 into two separate allotments.

## 5. Marlborough Estuaries: Ecological Vulnerability Assessment and Monitoring Plan

(also refer to separate report available on Council's website)

(Clr Burgess) (Report by Oliver Wade)

E325-002-002

### Purpose of Report

1. To provide information on a recently published report including an inventory of the regions estuaries and describing an ongoing state of the environment monitoring plan.

### Executive Summary

2. MDC has been collecting state of the environment information on our regions estuaries since 2001.
3. This has focussed on the larger estuaries in our region and on gaining current state information.
4. A broad array of state of the environment reports have been produced which can be viewed on the MDC website at <https://www.marlborough.govt.nz/environment/coastal/estuaries>
5. The report contains a vulnerability assessment for nearly all the estuarine areas of the Marlborough District (n=56) and describes the monitoring plan for the next ten years.
6. The presentation will present the findings of the report.

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## RECOMMENDATION

That the information be received.

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### Background/Context

7. Estuaries are a vital part of the Marlborough Coastal Marine Area. Our estuaries provide homes for a large variety of birds, fish and invertebrates; process nutrients; provide a buffer for the land from the effects of climate change; and have a large variety of cultural, social and economic values.
8. Baseline information has been collected in several estuaries since 2001. However, information gaps remain including the extent of intertidal seagrass and salt marsh habitats across the Marlborough Sounds and the impacts of sediment, the key stressor, on estuary health.
9. MDC engaged Salt Ecology to develop a long-term state of the environment estuary monitoring programme with the primary aim to monitor key intertidal habitats (e.g. seagrass, salt marsh) and identify the contribution of stressors (e.g. sediment) affecting ecological health (Ulrich 2018), with the purpose to support informed decision making and maintain and/or improve estuary health.
10. The development of the monitoring programme was a six-step process. This included:
  - a) Setting the objective of the monitoring
  - b) Prioritising sites for monitoring
  - c) Selecting indicators
  - d) Establishing thresholds
  - e) Selecting monitoring methods
  - f) Developing the monitoring plan
11. A tiered monitoring approach is described in the report to be reviewed in 10 years time.

## Presentation

There will be a short (15 minute) presentation by Oliver Wade.

## Attachment

**Attachment 1** - Marlborough Estuaries: Ecological Vulnerability Assessment and Monitoring Plan is available on Council's website via the following link <https://www.marlborough.govt.nz/your-council/meetings>

Author	Oliver Wade, Principal Coastal Scientist – Nautical and Coastal Team.
Authoriser	Hans Versteegh, Environmental Science and Policy Group Manager.

## 6. Discharges to the Motuweka/Havelock Estuary

(also refer to separate report available on Council's website)

(Clr Burgess) (Report prepared by Oliver Wade)

E325-002-002

### Purpose of Report

1. To provide information on a recently completed report that identifies, characterises and maps the discharges to the Motuweka/ Havelock Estuary.

### Executive Summary

2. The Motuweka estuary at Havelock is the receiving environment for the Te Hoiere and Kaituna rivers.
3. SOE monitoring of the estuary has shown that it is in a degraded state and one of the muddiest estuaries in the country.
4. Despite this knowledge an inventory of discharges to the estuary was not previously available.
5. MDC staff engaged Cawthron to collate information from MDC databases and other sources about discharges to the estuary.
6. The key output from this work is a geodatabase with spatial information on the location and nature of the discharges.
7. The presentation will present the findings of the report and demonstrate the spatial information.

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## RECOMMENDATION

**That the information be received.**

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### Background/Context

8. The Motuweka/ Havelock Estuary is of great importance as a breeding and feeding area for a variety of wetland birds, provides roosting and feeding for a number of seabird species, has large mud and sandflats providing habitat for numerous shellfish and habitat for juvenile fish.
9. The Motuweka/ Havelock Estuary is the receiving environment for waters from the Te Hoiere/ Pelorus and Kaituna catchments.
10. The inputs from the riverine systems can have a cumulative and synergistic effect on the environment with a large number of discharges from the residential and industrial areas of Havelock town.
11. MDC engaged Cawthron to produce a summary of the information about the quality and quantity of direct aquatic inputs to the Havelock Estuary.
  - a) Data collation of available aquatic input information, presented as a summary excel file.
  - b) A site visit to Motuweka/Havelock for two Cawthron staff to locate and describe (identify key features/photograph/GPS) any visible outfalls and obvious visual effects from inputs to the surrounding coastline.
  - c) Mapping of the types of aquatic inputs to the estuary (including riverine inputs and consented/unconsented discharges).

- d) A short report, including the project methods, a description of each individual input and estimates of individual and cumulative loading (supported by the summary tables and maps described above).
12. Information such as this on the quality and quantity of discharges to the Motuweka/ Havelock estuary is a vital first step in understanding and managing the cumulative anthropogenic impacts on the estuary.

**Presentation**

There will be a short (15 minute) presentation by Oliver Wade.

**Attachment**

**Attachment 1** - Discharges to the Motuweka/ Havelock Estuary is available on Council's website via the following link <https://www.marlborough.govt.nz/your-council/meetings>

Author	Oliver Wade, Principal Coastal Scientist – Nautical and Coastal Team
Authoriser	Hans Versteegh, Environmental Science and Policy Group Manager



## 7. A Review of Land Use Capability Classification in North Marlborough

(also refer to separate report available on Council's website)

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(Clr Burgess) (Report by Matt Oliver)

E355-003-001

### Purpose of Report

1. To receive information on recent work to update Land Use classification in North Marlborough.

### Executive Summary

2. Current Land Use Capability (LUC) mapping underpins significant legislation including the NES-Freshwater, NPS Highly Productive Land and importantly, the NES Plantation forestry.
3. The LUC mapping in North Marlborough was completed in the 1970s and its usefulness and reliability to underpin modern land use decision making has been questioned.
4. Recent acquisition of LiDAR data has enabled the LUC mapping to be investigated and possibly improved.
5. A study was commissioned and successfully completed. Several simplifying assumptions were made during the study.
6. A subsequent Peer Review showed that the remapping work could not adequately represent LUC due to several factors including coarse co-variate data and the simplifying assumptions.
7. However, the work in total is a valuable lesson in the flaws within existing land use data and the potential difficulties in improving this data.

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### RECOMMENDATION

**That the report be received.**

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### Background/Context

8. Land Use Capability (LUC) classification is a systematic arrangement of different types of land according to those properties that determine its capacity for long-term, sustained production.
9. LUC is the only nation-wide land classification schema. LUC is widely used in other regions for farm plans.
10. LUC mapping occurred in two editions. Initial "Legend 00" mapping in 1973-79 was 1:63,630 scale and covered the entire South Island. The second edition classification was developed in 1996 by Ian Lynn at 1:50,000 scale. But mapping was only completed for South Marlborough and the Wairau catchment prior to the withdrawal of funding. The Marlborough Sounds were never remapped at finer scale as per all the North Island councils. This situation remains.
11. As the only national land use data set, LUC now underpins several regulatory instruments.
  - a) The NES for Plantation Forestry contains an Erosion Susceptibility classification map directly derived from LUC. The ESC is mapped at 1:50,000 nominally as the scale of the underpinning LUC limits use at finer scale. It is acknowledged to be, at best, a triage tool for determining the need for consent. Note that Council has declared greater stringency over the Marlborough Sounds thus requiring consent anyway. The inability to use the ESC as an operational tool remains however.

- b) The NPS for Highly Productive Land includes LUC classes 1,2,3 as default classification for land that is highly productive and seeks to protect these from development.
  - c) The NES for freshwater will require land unit mapping to a yet unknown degree. For many landowners LUC is the logical methodology to utilise for this mapping.
12. With the procurement of LiDAR data in 2020, an opportunity arose to investigate the feasibility of refining the LUC layer for the Marlborough Sounds. This could potentially lead to improvements in the NESPF ESC mapping and provide better information for both regulators and foresters at a usable operational scale (1:10,000).

## Feasibility Study

13. Mark Bloomberg (University of Canterbury) and Dave Palmer (Scion Research) were engaged to carry out a study into the feasibility of producing fine-scale LUC maps from existing mapping.
14. The key questions asked were:
- a) Can the existing LUC mapping be refined using newly procured LiDAR elevation data?
  - b) Could such refinement be used to improve the ESC?
15. Various co-variate layers were assembled including legacy mapping of LUC, soils, geology. More modern data on rainfall was sourced and the 2020 LiDAR data was used to create a slope layer. Note that the original scales for these co-variates vary from coarse (1:50,000) to fine (1:10,000).
16. Two methods were trialled:
- a) Disaggregation of polygons (pulling polygons apart cell-by-cell then reassigning LUC classes according to co-variate data).
  - b) Use of a published decision-tree. A key to LUC was published in 1996. This was converted to algorithms and used to “rebuild” the classification cell-by-cell from the co-variate data.
    - i) Note that a number of simplifying assumptions were made during the development of the algorithms. These included simplifying the threshold slope classes for different LUC classes.
17. The results showed that the decision-tree method was capable of:
- a) recreating LUC at a finer scale.
  - b) separating out compound LUC units (where more than 1 LUC unit was included in a single polygon).
  - c) reallocating LUC units to more appropriate units.
  - d) clearly identifying Class 8e land. This is the most erosion prone land.

## Peer Review

18. The study authors recommended that the work be peer reviewed by an experienced LUC mapper.
19. The work was peer reviewed by Ian Lynn of Maanaki Whenua Landcare Research. Mr Lynn is the author of the 1996 Marlborough second edition LUC (decision-tree) work and is regarded as the national subject matter expert.
20. The review results were complimentary with regards to the study intent and methodology. Mr Lynn agreed that this method is a valid way to improve the LUC mapping.
21. However, Mr Lynn raised several concerns that on balance mean the work has failed to produce a supportable LUC map. The concerns centre on the simplifying assumptions and the use of coarse soil mapping data.

22. In summary, the methodology is valid, the work was done well, and the result is acceptable. However, the simplifying assumptions need to be removed (a significant increase in algorithm complexity) and the coarse underlying co-variables need to be improved to a finer scale to create a valid LUC map at fine scale. This means the work cannot be used to upgrade the ESC.

### Next steps

23. The result is both positive and negative. While the method can be used, without the fine-scale co-variables a valid fine-scale LUC map is unobtainable. The greatest obstacle is the need for a fine-scale soil map.
24. A fine-scale soil map would be possible to create by utilising legacy studies, but this would represent approximately five years of mapping effort even using digital soil mapping technology.
25. The feasibility study does have significant value to Council. It has illustrated:
- a) The coarse nature of LUC mapping (and hence ESC) in the Marlborough Sounds.
  - b) The risks of using this coarse scale mapping in planning and regulation.
  - c) That the legacy datasets are approaching the end of their life in their current form and scale.
  - d) Errors within the LUC mapping.
26. Council is now left in the position where we must choose either; to continue to develop the existing legacy datasets or, look for alternate datasets that may address the root problems.
27. This LUC work sought to ultimately refine the ESC. Perhaps a different approach could provide the erosion susceptibility guidance that is required by industry and regulators. There are options available.
28. Ultimately, it is likely that Council will adopt a hybrid approach that collects and utilises new data, while using the principles developed from legacy work to create datasets that address real-world problems.

### Presentation

A presentation will be given by Matt Oliver (20 minutes).

### Attachment

**Attachment 1** - LUC Final Revision v4 is available on Council's website via the following link <https://www.marlborough.govt.nz/your-council/meetings>

Author	Matt Oliver, Environmental Scientist Land Resources
Authoriser	Peter Hamill, Team Leader Land and Water

## 8. Annual Air Quality Monitoring Report – Blenheim 2022

(also refer to separate report available on Council's website)

(Cllr Burgess) (Report prepared by Sarah Brand)

E300-004-003-01

### Purpose of Report

1. To present the Annual Air Quality Monitoring Report – Blenheim 2022, prepared by Emily Wilton, Environet Limited.

### Executive Summary

2. PM<sub>10</sub> is the only air pollutant likely to exceed the National Environmental Standard for Air Quality (NES) in Marlborough and is required to be measured continuously in Blenheim.
3. Concentrations of PM<sub>10</sub> exceeded the maximum concentration of 50 micrograms per cubic metre (50 µg/m<sup>3</sup>) on only one occasion in 2022. As the NES allows for one exceedance per year, the NES was not breached for the 2022 calendar year. The maximum measured concentration during 2022 was 51 µg/m<sup>3</sup> and is the second lowest since continuous monitoring commenced in 2006.
4. A key objective of the 2022 monitoring was to determine if irregularities in the data observed in 2021 (sixteen exceedances with a greater contribution of coarse mode (PM<sub>10</sub>-PM<sub>2.5</sub>) particulate) continued or were, as speculated, likely to be caused by localised earthworks. The 2021 monitoring report concluded that in the absence of this source the number of exceedances of 50 µg/m<sup>3</sup> would likely have been only one report (See Environment Committee Agenda item 7 - 10 February 2022 for more detail). Results for 2022 support that conclusion.
5. The annual average PM<sub>10</sub> concentration for 2022 was 15µg/m<sup>3</sup> which is at the lower end of the normal range for Blenheim (14-19 µg/m<sup>3</sup>). The Ministry for the Environment (MfE) guideline specifies an annual average for PM<sub>10</sub> of 20 µg/m<sup>3</sup> however the NES does not currently include an annual average guideline for PM<sub>10</sub>.
6. These results mean Blenheim complied with the NES for PM<sub>10</sub> for the 2022 year.
7. Previous trend assessments for PM<sub>10</sub> had concluded that data were not indicative of overall improvement or degradation in PM<sub>10</sub> concentrations in Blenheim and that no trend was evident. However, if the 2021 data are disregarded owing to a localised source contributing to PM<sub>10</sub> that year, as discussed in the 2021 Blenheim air quality monitoring, then 2022 data are likely indicative of a downward trend in PM<sub>10</sub>.
8. A key question for PM<sub>10</sub> in Blenheim is whether reductions in PM<sub>10</sub> have been sufficient to ensure that the NES will be met under worst case meteorological conditions. It is likely that worst case meteorological conditions than those experienced during 2022 will occur and these would likely result in greater than one exceedance of 50 µg/m<sup>3</sup>. Ongoing compliance with the NES is therefore likely to depend on emission reductions continuing beyond 2022.
9. For the past decade the scientific community has been of the view that the smaller fraction of PM<sub>10</sub> particles, those less than 2.5 microns in diameter (PM<sub>2.5</sub>), are a stronger indicator of health impacts. MfE have indicated that a review will be made of the NES which would look to move the focus from PM<sub>10</sub> to PM<sub>2.5</sub>. In 2020, MfE indicated that they were looking to move away from the current PM<sub>10</sub> standard to a daily average standard for PM<sub>2.5</sub> of 25 µg/m<sup>3</sup> and an annual average PM<sub>2.5</sub> standard of 10 µg/m<sup>3</sup>.
10. Towards the end of 2021 the World Health Organisation (WHO) released revised guidelines for PM<sub>10</sub> and PM<sub>2.5</sub>. The revised WHO annual PM<sub>2.5</sub> guideline value of 5 µg/m<sup>3</sup> and daily guideline of 15 µg/m<sup>3</sup> are significantly lower than the 2020 MfE proposed NESAQ values. It is currently unclear which, if any, of the WHO guidelines MfE will adopt for the NES review, as such the 2020 proposed NES values for PM<sub>2.5</sub> have been used for the reporting values for PM<sub>2.5</sub> concentrations for the 2022 year.
11. PM<sub>2.5</sub> results for 2022 show that Blenheim exceeded the proposed MfE 24-hour average NES for PM<sub>2.5</sub> on 27 occasions which would constitute 24 breaches (the proposed NES PM<sub>2.5</sub> standard will only

allow for three exceedances per year). This is a reduction when compared to the 38 and 45 exceedances seen in 2021 and 2020 years respectively. The maximum measured PM<sub>2.5</sub> concentration for 2022 was 51 µg/m<sup>3</sup> and is higher than the 2021 maximum of 43 µg/m<sup>3</sup> but lower than the 2020 maximum of 54 µg/m<sup>3</sup>.

12. If the 24-hour average proposed NES for PM<sub>2.5</sub> were introduced, significant reductions in daily winter PM<sub>2.5</sub> concentrations would be required to be compliant and consequent air quality management required to meet this target would likely be significant.
13. If the NES for PM<sub>2.5</sub> were reduced further in line with the 2021 WHO guideline revisions, additional, more stringent air quality management would likely be required for Blenheim, which exceeded the WHO daily guideline of 15 µg/m<sup>3</sup> eighty times in 2022.

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## RECOMMENDATION

**That the information be received.**

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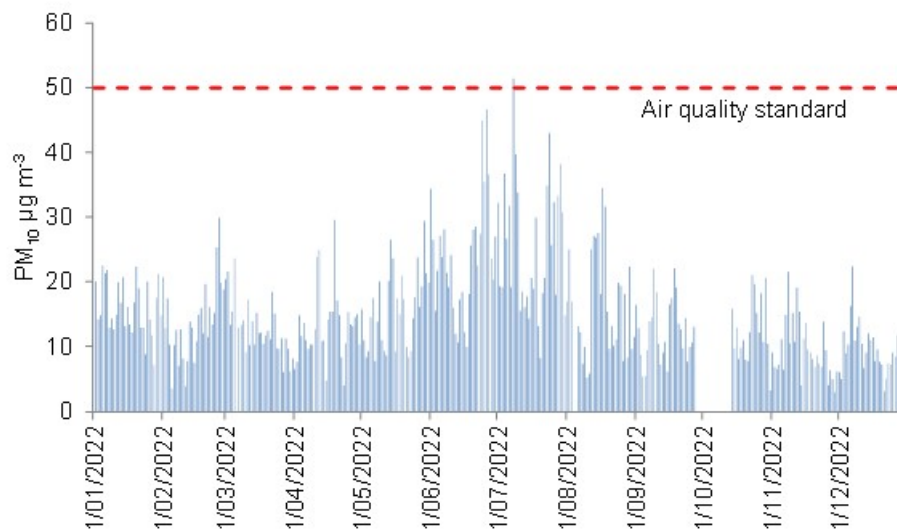
### Background/Context

14. The National Environmental Standards for Air Quality (NES) sets maximum concentrations for several air pollutants. The main air pollutant of concern in urban areas of New Zealand is particulate matter.
15. Currently the NES focuses on PM<sub>10</sub> which is particulate matter smaller than 10 micrometre (0.001mm) in diameter. These small particles are easily inhaled and become lodged in airways and lungs and the smallest particles are absorbed into the blood stream. They can cause respiratory as well as cardiovascular problems and premature death with prolonged exposure above acceptable levels.
16. The maximum concentration of PM<sub>10</sub> allowed is a daily average of 50 µg/m<sup>3</sup>. This level is permitted to be exceeded once in a 12-month period. Every additional exceedance is considered a breach of the NES.
17. One of the main proposed changes to the NES is a move of the focus to the PM<sub>2.5</sub> fraction for which there is scientific evidence that these smaller particles, less than 2.5 microns in diameter, are a stronger indicator of health. The proposal is to move from the current PM<sub>10</sub> daily average standard of 50 µg/m<sup>3</sup> to a PM<sub>2.5</sub> daily average standard of 25 µg/m<sup>3</sup> and an annual average PM<sub>2.5</sub> standard of 10 µg/m<sup>3</sup>. The proposal would allow three or less exceedances in a 12-month period to the PM<sub>2.5</sub> daily average standard.
18. The Ministry for the Environment (MfE) is still reviewing the NES for particulate matter having undertaken public consultation in mid-2020 with a summary of submissions published in December 2020. In September 2021 the World Health Organisation (WHO) released revised guidelines for PM<sub>10</sub> and PM<sub>2.5</sub> including annual and daily guidelines for the latter (See Environment Committee Information Pack - 8 September 2022 for more detail). The revised WHO annual PM<sub>2.5</sub> guideline value of 5 µg/m<sup>3</sup> and daily guideline of 15 µg/m<sup>3</sup> are significantly lower than the 2020 proposed NES values.
19. In July 2022 an updated Health and Air Pollution in New Zealand study was released, known as HAPINZ 3.0. (See Environment Committee Information Pack - 8 September 2022 for more detail). This was jointly commissioned by the MfE and Waka Kotahi (in partnership with Te Manatū Waka Ministry of Transport and Ministry of Health). The study found that the primary health impact resulting from air pollution (in terms of social cost) is premature mortality (death) in adults. However, the costs of increased morbidity (illness and disease) was also found to be considerable.
20. In terms of particulate pollution, specifically PM<sub>2.5</sub> pollution from anthropogenic sources in NZ, the study found that in 2016 the cost to society was \$6.1 billion and were associated with:
  - Domestic fires (74%)
  - Motor vehicles (17%)
  - Windblown dust (8%)
  - Industry (0.1%)

21. In all regions, domestic fires dominated regions PM<sub>2.5</sub> social costs – with contributions ranging from 59% to 88%. On average domestic fire impacts were more than four times those of motor vehicles for PM<sub>2.5</sub> pollution from anthropogenic sources.
22. The findings of this report are expected to be taken into consideration by MfE when considering changes to the NES. The Resource Management (RM) reforms will also likely impact on these amendments but at this stage it is unclear just what that impact will be and any associated timeframes.
23. Blenheim is the only airshed gazetted for Marlborough and as such concentrations of PM<sub>10</sub> are required be monitored continuously. This is done at the Redwoodtown Bowling Club site, with PM<sub>2.5</sub> also being measured since 2017.
24. Blenheim was required to comply with the NES for PM<sub>10</sub> by winter 2017, data from 2022 shows that Blenheim was compliant for the 2022 year.
25. The most recent air emission inventory for Blenheim completed in 2022 showed domestic heating was found to be the main source of daily winter PM emissions, accounting for 94% of the daily winter PM<sub>10</sub> and 96% of the daily winter PM<sub>2.5</sub>. Industrial, transport and outdoor burning sources make up the remaining percentages. (See Environment Committee Agenda Item 5 - 8 September 2022 for more details on the results of the air emission inventory).
26. The PM<sub>10</sub> standard is usually breached during the winter months when emissions from domestic home heating coincide with meteorological inversion conditions which are conducive to elevated concentrations.

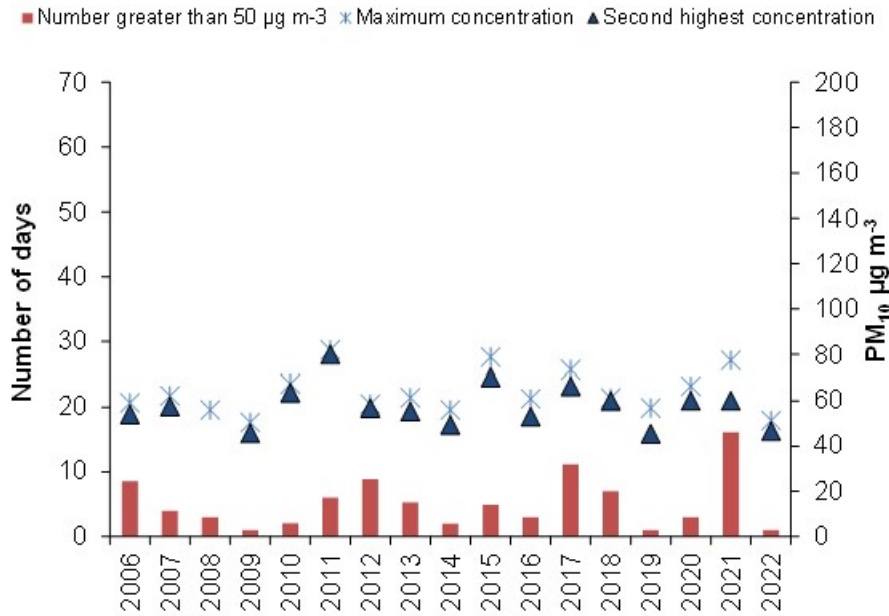
## Assessment/Analysis

27. Concentrations of PM<sub>10</sub> exceeded 50 µg/m<sup>3</sup> in Blenheim on one occasion during 2022, which occurred on 7 July 2022. As the NES allows for one exceedance per year, the NES was not breached for the 2022 calendar year. The maximum measured concentration during 2022 was 51 µg/m<sup>3</sup> and is the second lowest since continuous monitoring commenced in 2006.



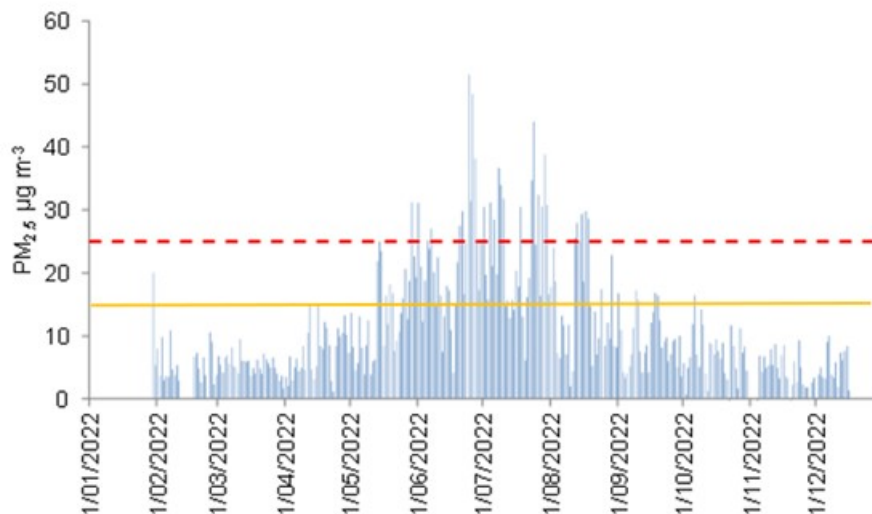
### 24-hour average PM<sub>10</sub> concentrations measured at the Redwoodtown – Bowling Club site during 2022.

28. The annual average PM<sub>10</sub> concentration for 2022 was 15 µg/m<sup>3</sup> which was at the lower end of the normal range for Blenheim (14-19 µg/m<sup>3</sup>). MfE guidelines specify an annual average for PM<sub>10</sub> of 20 µg/m<sup>3</sup> however the NES does not currently include an annual average guideline for PM<sub>10</sub>. The revised WHO guidelines specify an annual average for PM<sub>10</sub> of 15 µg/m<sup>3</sup>. As a comparison annual average PM<sub>10</sub> concentrations for 2021 and 2020 were 19 µg/m<sup>3</sup> and 18 µg/m<sup>3</sup> respectively.



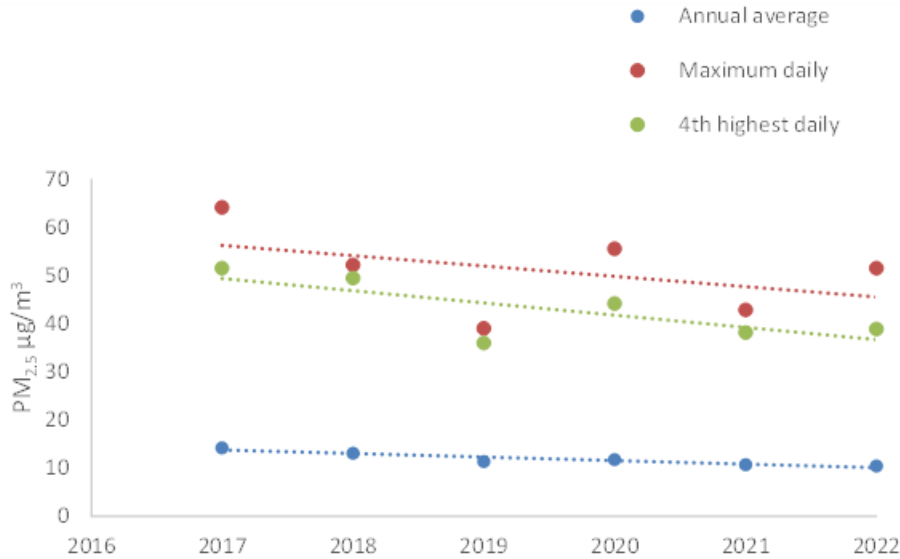
**Number of days when 50 µg m<sup>-3</sup> was exceeded, the maximum concentration and the second highest concentration from 2006 to 2022.**

29. Concentrations of PM<sub>2.5</sub> exceeded 25 µg/m<sup>3</sup> (24-hour average proposed NES) on 27 occasions. This is lower than the 38 exceedances recorded in 2021 and almost a third less than the greatest number of exceedances of 72 measured in 2017. The maximum measured PM<sub>2.5</sub> concentration for 2022 was 51 µg/m<sup>3</sup> and is higher than the 2021 maximum of 43 µg/m<sup>3</sup> but lower than the 2020 maximum of 54 µg/m<sup>3</sup>.
30. However, when the daily PM<sub>2.5</sub> results are compared against the WHO daily guideline of 15 µg/m<sup>3</sup> this was exceeded 80 times.
31. The annual average PM<sub>2.5</sub> concentration was 10.5 µg/m<sup>3</sup> and is slightly lower than the 2021 average of 10.8 µg/m<sup>3</sup>, but still well above the new WHO AQ guideline of 5 µg/m<sup>3</sup>.



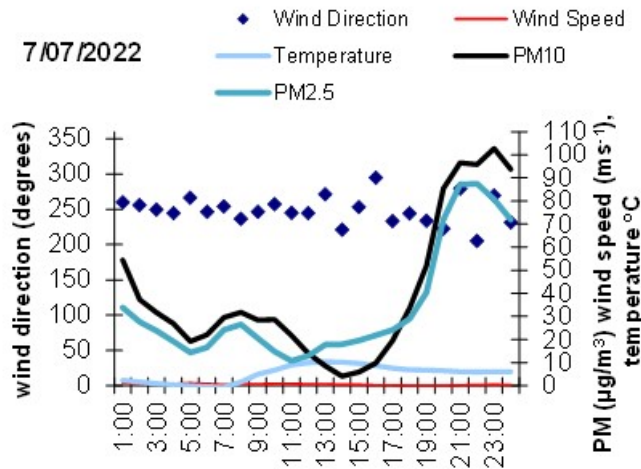
**24-hour average PM<sub>2.5</sub> concentrations measured at the Redwoodtown – Bowling Club site during 2022. Red dotted line the MfE 24-hour average proposed NES, orange line the WHO daily PM<sub>2.5</sub> guideline.**

32. Comparison of the annual average, maximum and fourth highest daily PM<sub>2.5</sub> concentrations at Redwoodtown since monitoring commenced in 2017 suggest a downward trend in PM<sub>2.5</sub> concentrations since 2017.



**Summary PM<sub>2.5</sub> concentrations from 2017 to 2022.**

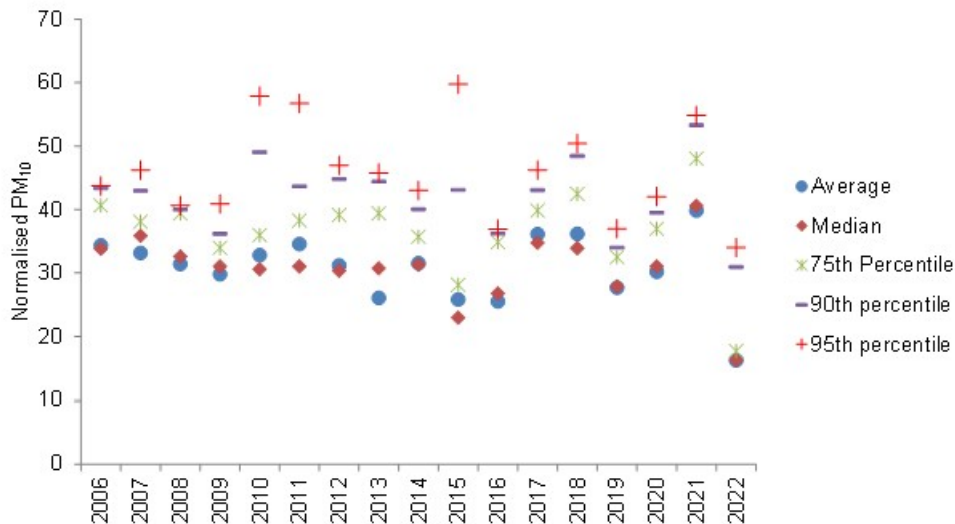
33. Daily variations in PM<sub>10</sub> and PM<sub>2.5</sub> on high pollution/exceedance days generally show peak concentrations during the evening with a smaller peak occurring mid-morning. These days are associated with key meteorological conditions of low wind speeds and a south-westerly wind direction. The data from the only exceedance day in 2022, 7 July 2022, shows this pattern.



**7 July 2022 - Hourly average PM<sub>10</sub>, PM<sub>2.5</sub>, wind speed, direction, and temperature when PM<sub>10</sub> concentrations exceeded 50 µg m<sup>-3</sup> (24-hour average).**

34. Meteorological conditions can impact concentrations of PM<sub>10</sub> and a trend assessment was undertaken in 2012 to provide a tool for comparing year to year PM<sub>10</sub> concentrations whilst minimising the impact of variability in meteorological conditions. The following graph shows the trends in PM<sub>10</sub> concentrations after adjusting for meteorological conditions.





**Trends in PM<sub>10</sub> concentrations after adjusting for meteorological conditions.**

- 35. The results for 2022 are lower than any previous values for all PM<sub>10</sub> indicators. Previous assessments had concluded that the data are not indicative of overall improvement or degradation in PM<sub>10</sub> concentrations in Blenheim and that no trend was evident. However, if the 2021 data are disregarded owing to a localised source contributing to PM<sub>10</sub> that year, as discussed in the 2021 air quality monitoring report, then 2022 data are likely indicative of a downward trend in PM<sub>10</sub>. This is supported by the PM<sub>2.5</sub> data which suggests a reduction in concentrations since 2017.
- 36. A key question for PM<sub>10</sub> in Blenheim is whether reductions in PM<sub>10</sub> have been sufficient to ensure that the NES will be met under worst case meteorological conditions. It is likely that worst case meteorological conditions than those experienced during 2022 will occur and these would likely result in greater than one exceedance of 50 µg/m<sup>3</sup>. Ongoing compliance with the NES is therefore likely to depend on emission reductions continuing beyond 2022 with further reductions in emission likely to be required for ongoing compliance. A minimum of five years with no breaches is required for an airshed to no longer be considered polluted.
- 37. Management measures to reduce PM<sub>10</sub> concentrations to meet the NES have been included in the Marlborough Environmental Plan (MEP) as well as non-regulatory education programmes targeting household’s operation of wood burners.
- 38. Changes to the NES would likely result in the requirement for a review of both regulatory controls and non-regulatory measures, with potentially significant management measures required to result in reductions in particulate concentrations to meet revised targets.

**Next steps**

- 39. To update the Council’s website pages relating to air quality with the 2022 results and report.

**Presentation**

- 40. A short presentation will be given by Sarah Brand (10 minutes).

**Attachment**

**Attachment 1** – Annual Air Quality Monitoring Report – Blenheim 2022 report is available on Council’s website <https://www.marlborough.govt.nz/your-council/meetings>

Author	Sarah Brand, Strategic Planner
Authoriser	Hans Versteegh, Environmental Science & Policy Group Manager

## 9. Picton Air Emission Inventory 2022 and Update on Picton Air Quality Monitoring

(also refer separate report available on Council's website)

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(Clr Burgess) (Report prepared by Sarah Brand)

E300-004-002-01

### Purpose of Report

1. To provide the Picton Air Emission Inventory 2022 Report.
2. To update the Committee on upcoming air quality monitoring for Picton.

### Executive Summary

3. The purpose of an emission inventory is to estimate the contribution of different sources of emissions to air and evaluate changes over time.
4. This is the first assessment of estimated sources of emissions to air in Picton. Assessments are carried out at five yearly intervals, so in 2027 some trend comparison will be initiated.
5. Picton is located on the Queen Charlotte Sound with a normal resident population of around 4300 people as well as being a regional hub for recreation, tourism and transportation including being the South Island base to the interisland ferries and a cruise ship port.
6. Sources included in the emission inventory are domestic heating, motor vehicles, port activities including shipping and cargo handling, industrial and commercial activities and outdoor burning.
7. Natural source contributions (for example, sea salt and soil) are not included because the methodology to estimate emissions is less robust.
8. The evaluation focuses on particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), other contaminants are also evaluated including carbon monoxide (CO), nitrogen oxides (NO<sub>x</sub>), sulphur oxides (SO<sub>x</sub>), volatile organic compounds (VOCs) and carbon dioxide (CO<sub>2</sub>).
9. Domestic heating was found to be the main source of daily winter PM<sub>10</sub> emissions, accounting for 75% of the daily winter PM<sub>10</sub> and 76% of the daily winter PM<sub>2.5</sub>. In comparison, Blenheim's most recent emission inventory in 2022 also found domestic heating was the main source of daily winter PM<sub>10</sub> emissions, but this source accounted for 94% of the daily winter PM<sub>10</sub> and 96% of the daily winter PM<sub>2.5</sub>.
10. On an average winter's night, around 100 kilograms of PM<sub>10</sub> are discharged from all sources. As a comparison on an average Blenheim winter's night, around 409 kilograms of PM<sub>10</sub> are discharged from all sources.
11. The main contributor to annual PM<sub>10</sub> and PM<sub>2.5</sub> in Picton is domestic heating (around 53% and 60% respectively) with outdoor burning and industry being the next most significant contributors.
12. Domestic home heating is also the main source of daily winter CO, while shipping is the main source of NO<sub>x</sub> and SO<sub>x</sub> in Picton.
13. National Environmental Standard compliant air quality monitoring is planned to start in Picton this year. Funding has been obtained through the Better Off Funding to establish two monitoring sites, one for PM and the other for NO<sub>x</sub>/SO<sub>x</sub>.
14. Sites have been selected but require an assessment and recommendation by the Reserves team followed by approval from council for equipment to be located within two reserves in Picton. It is hoped that this assessment and recommendation will be brought before Council at the Assets and Services Committee in April 2023.

15. PM equipment has been ordered and a contractor specialising in NOx/SOx monitoring has been identified who is able to assist with the setting up and maintenance of a yearlong temporary site for these contaminants.

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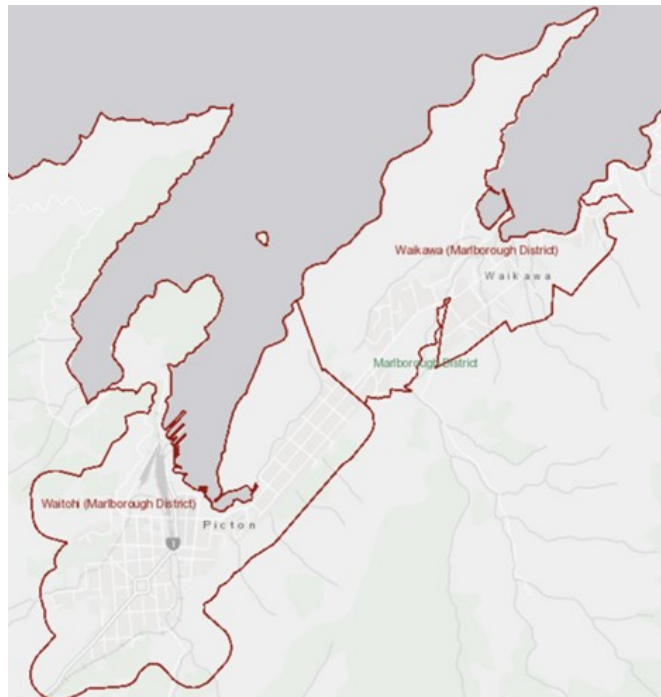
## RECOMMENDATION

That the report be received.

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### Background/Context

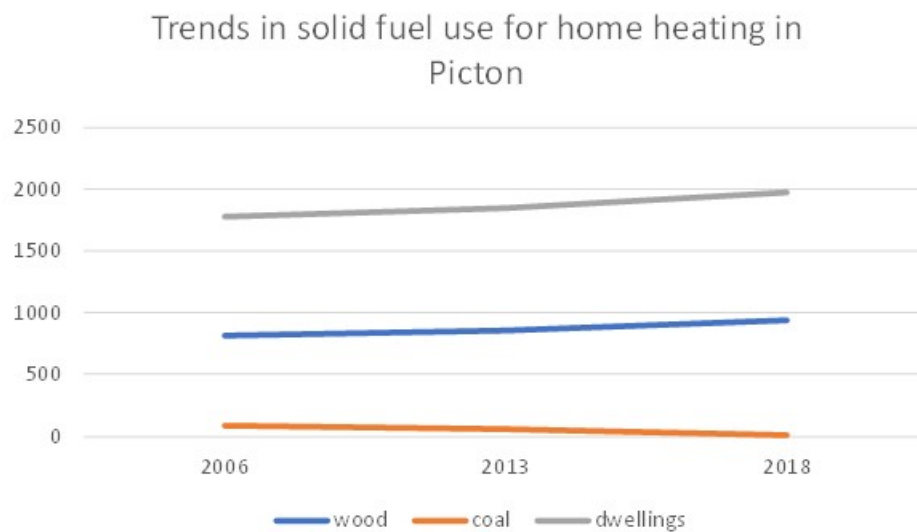
16. This is the first emission inventory for Picton and is part of an increased focus on the area's air quality which included a continuous spatial air quality monitoring assessment study completed in 2020 which suggested the National Environmental Standard for Air Quality (NES) for several contaminants may be exceeded in different parts of the area, at different times of the year, highlighting the differing emission sources in the town area.
17. The purpose of this assessment was to estimate the contribution of different sources of emissions to air in the area. However as this is the first inventory, evaluating changes in emissions to air over time is limited but will form part of future studies which generally occur five years apart.
18. Sources included in the emission inventory are domestic heating, motor vehicle, port activities including shipping and cargo handling, industrial and commercial activities, and outdoor burning. Natural source contributions (for example sea salt and soil) are not included because the methodology to estimate emissions is less robust.
19. While the evaluation focuses on PM<sub>10</sub> and PM<sub>2.5</sub> other contaminants also evaluated include carbon monoxide (CO), nitrogen oxides (NOx), sulphur oxides (SOx), volatile organic compounds (VOCs) and carbon dioxide (CO<sub>2</sub>).
20. The Picton inventory study area for 2022 is the inventory area defined by Statistical Area units, specifically the Waitohi and Waikawa SA2 (2018) boundaries.



Picton inventory area comprising Waitohi and Waikawa SA2 area.

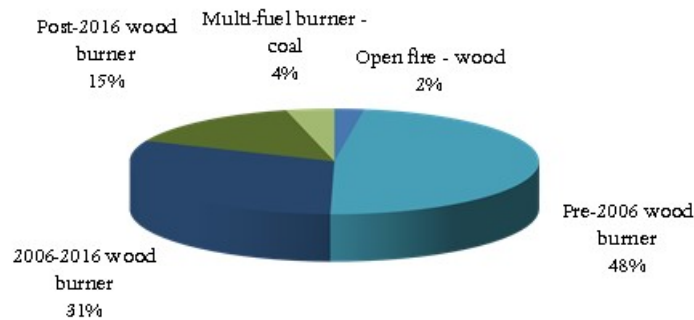
## Domestic Heating

21. Domestic heating methods and fuel used by households in Picton was collected using a combination of household survey (winter 2022) and 2018 census data for heating methods (extrapolated for 2022 using Statistic New Zealand's population projections), based on average and worst-case wintertime scenarios and by month of the year.
22. The most popular form of heating in the main living area of homes in Picton is electricity with around 71% of surveyed households using that method, slightly less than the 76% of Blenheim households. Wood burners are the next most common method at around 47%, in comparison Blenheim was 39%.
23. To assess trends in solid fuel burner use for home heating, trends in heating fuels were examined from 2006 to 2018. The proportion of households using wood burning for home heating hasn't changed significantly over the past 15 years. Coal use has been historically low with further decreases to 2018.



### Trends in home heating fuels in Picton from 2006 to 2018 (NZ Stats, 2021)

24. Around 77 kilograms of PM<sub>10</sub> is discharged on a typical winter's day from domestic home heating in Picton. This compares to around 383 kilograms of PM<sub>10</sub> in Blenheim. Under worst case scenario, with all households using a burner on any given night, this could increase to around 91 kilograms of PM<sub>10</sub> likely to be emitted.
25. The majority of the annual PM<sub>10</sub> emission in Picton from domestic home heating occur during June, July and August.
26. Older wood burners installed prior to 2006 contribute the majority of the PM<sub>10</sub> from domestic heating, some 46%. The NES design criteria for wood burners was mandatory for new installations on properties less than 2 hectares from September 2006. Wood burner installed from 2006 to 2016 contribute 31% of domestic heating PM<sub>10</sub> emissions and post 2016 burners contribute 8%.



**Relative contribution of different heating methods to average daily PM<sub>10</sub> (winter average) from domestic heating.**

## Motor Vehicles

27. Motor vehicle emissions to air include tailpipe emissions of a range of contaminants and particulate emissions occurring as a result of the wear of brakes and tyres. Assessing emissions from motor vehicles involves collecting data on vehicle kilometres travelled (VKT) and the application of emission factors to these data.
28. Around two kilograms per day of PM<sub>10</sub> are estimated to be emitted from motor vehicles daily in Picton. Around 45% of the PM<sub>10</sub> from motor vehicles is estimated to occur as a result of tailpipe emissions with 38% from the wearing of brakes and tyres.
29. These emissions equate to annual emissions around 0.7 and 0.6 tonnes of PM<sub>10</sub> and PM<sub>2.5</sub> respectively, 2977 tonnes of CO<sub>2</sub>, 18.3 tonnes of CO, 10 tonne of NO<sub>x</sub> and 1.6 tonnes of VOCs and 0.01 tonnes of SO<sub>x</sub>.

## Shipping and Port Emissions

30. Shipping emissions occur as a result of vessels approaching and leaving the Port facilities including the Shakespeare Bay dock, manoeuvring whilst berthing and as a result of the use of auxiliary engines and boilers whilst docking.
31. The number of ocean-going vessels for Picton is low and estimates have therefore been included for both recreational and passenger vessels and to a lesser extent also include harbour vessels including tugs, coast guard and recreational boats. Data on the number of calls for different vessel types and the time in Port was obtained from the Port of Marlborough.
32. For the purposes of assessing the contribution of shipping and port activities for this assessment the shipping discharge was limited to emissions assessed at a reduced speed within the harbour area as well as a three-kilometre radius from the harbour entry.
33. Analyses indicates less than one tonne of PM<sub>10</sub> and PM<sub>2.5</sub> per year from shipping and recreational vessels in the Picton airshed (including a three-kilometre harbour entry passage).

	PM <sub>10</sub> tonnes/year	CO tonnes/year	NO <sub>x</sub> tonnes/year	SO <sub>x</sub> tonnes/year	PM <sub>2.5</sub> tonnes/year
Recreational vessels	0.3	1.13	1.92	13.59	0.28
Bulk carrier	0.0	0.1	1.3	0.2	0.0
Small commercial	0.0	0.1	0.8	0.1	0.0
Ferry	0.3	1.13	1.92	13.59	0.28
Miscellaneous	0.0	0.2	1.9	0.3	0.0
Total	0.6	2.4	28.1	4.0	0.6

34. The prevalence of cruise ships has the potential to increase shipping emissions in the airshed. No cruise ships were present during 2022 while this emission work was being undertaken. However, to estimate the potential for increases in emissions associated with this source, a total of 51 cruise ships with an average of 10 hours docking per ship was used. The result being an additional 0.1 tonnes per year of PM<sub>10</sub> and PM<sub>2.5</sub>, 4.4 tonnes of NO<sub>x</sub> and 0.7 tonnes of SO<sub>x</sub> using MARPOL (Annex VI) compliant fuels.

## Rail

35. KiwiRail operates New Zealand DL class (diesel-electric) locomotives with the network extending for around four kilometers into the Picton airshed and culminating at the Port of Marlborough. Emissions from rail are calculated using emission factors and fuel consumption.
36. Around 0.1 kilograms of PM<sub>10</sub> and 0.1 kilograms of PM<sub>2.5</sub> was estimated to be discharged to air per winter's day, equating to some 0.03 tonnes each per year from rail sources.
37. This source also added 1.3 kilograms of CO per winter's day equating to 0.5 tonnes of CO per year and five kilograms of NO<sub>x</sub> per winter's day, equating to 2 tonnes of NO<sub>x</sub> per year.

## Industrial / Commercial

38. Information on industrial / commercial emissions to air are assessed through analysis of air discharge consents. Additional activities with smaller scale discharges to air were also identified though a web based search and emissions from log loading / unloading and storage were estimated using product quantities provided by the Port of Marlborough.
39. The selection of industries for inclusion in this inventory was based on potential for PM<sub>10</sub> emissions. Industrial activities such as spray painting or dry-cleaning operations, which discharge primarily volatile organic compounds (VOCs) were not included in the assessment. Neither were fugitive dust emissions from industrial and commercial activities because of difficulties in quantifying the emissions.
40. Around nine kilograms of PM<sub>10</sub> and four kilograms of PM<sub>2.5</sub> was estimated to be discharged to air per winter's day, equating to some 3.3 tonnes of PM<sub>10</sub> per year and 1.6 tonnes of PM<sub>2.5</sub> per year from industrial / commercial sources.
41. This source also added 0.4 tonnes of CO, 29 tonnes of CO<sub>2</sub> and 0.1 tonnes of VOCs per year.

## Outdoor Burning

42. Outdoor burning of green wastes or household material can contribute to PM<sub>10</sub> concentrations and also discharge other contaminants to air. Outdoor burning includes any burning in a drum, incinerator or open air on residential properties in the study area.
43. Data collected during the 2022 domestic home heating survey found that 12% of households in Picton burnt rubbish in the outdoors during the winter, this compares with 3% of Blenheim households. While the burning of green waste is a permitted activity under the Marlborough Environment Plan in the residential zones, the burning of rubbish is prohibited.

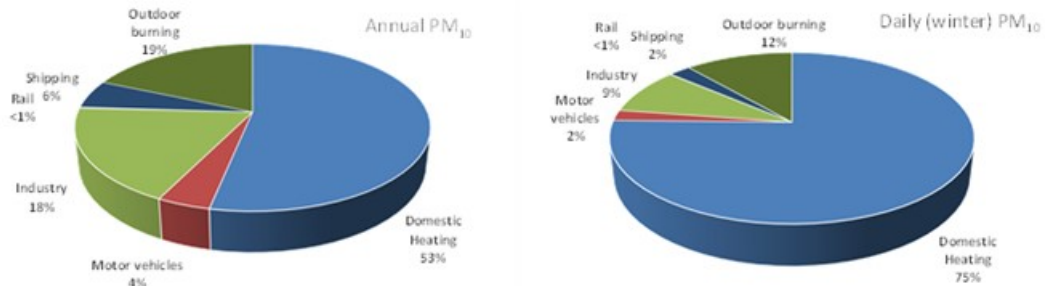
- 44. Around twelve kilograms of PM<sub>10</sub> and sixty-one kilograms of PM<sub>2.5</sub> from outdoor burning could be expected per day during the winter months on average in Picton, equating to 3 tonnes each per year.
- 45. This source is also estimated to add 18 tonnes of CO, 1 ton of CO<sub>2</sub> and 2 tonnes of VOCs per year.
- 46. However, outdoor burning emissions include a higher degree of uncertainty relative to domestic heating, motor vehicles and industry owing to uncertainties in the distribution of burning and potential variabilities in material density.

**Other Sources of Emissions**

- 47. Other sources of emissions not included in the inventory that may contribute to measured PM<sub>10</sub> concentrations at some times of the year include dusts (a portion of which occur in the PM<sub>10</sub> size fraction) and sea spray. These sources are not typically included because the methodology used to estimate the emissions is less robust.
- 48. Lawn mowers, leaf blowers and chainsaws can also contribute small amounts of particulate, however these are not typically included in emission inventory studies owing to the relatively small contribution, particularly in areas where solid fuel burning is a common method of home heating.

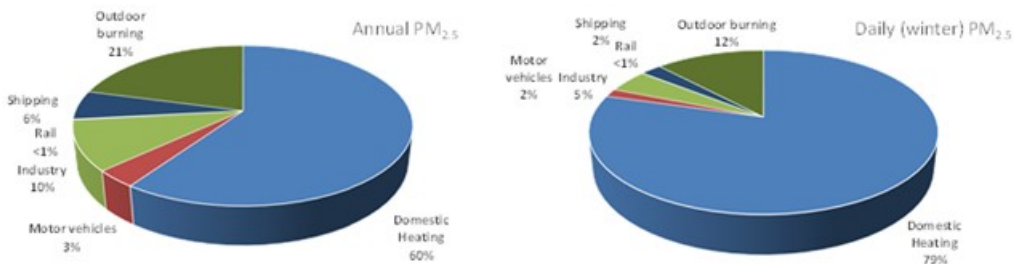
**Total Emissions**

- 49. Around 103 kilograms of PM<sub>10</sub> is discharged to air in Picton on an average winter’s day for 2022. Domestic home heating is the main source of PM<sub>10</sub> emissions contributing 75% of the daily wintertime PM<sub>10</sub> emissions and 53% of the annual PM<sub>10</sub> emissions. Industry and outdoor burning are the next most significant sources of both daily and annual PM<sub>10</sub> emissions.



**Relative contribution of sources to annual and daily winter PM<sub>10</sub> emissions.**

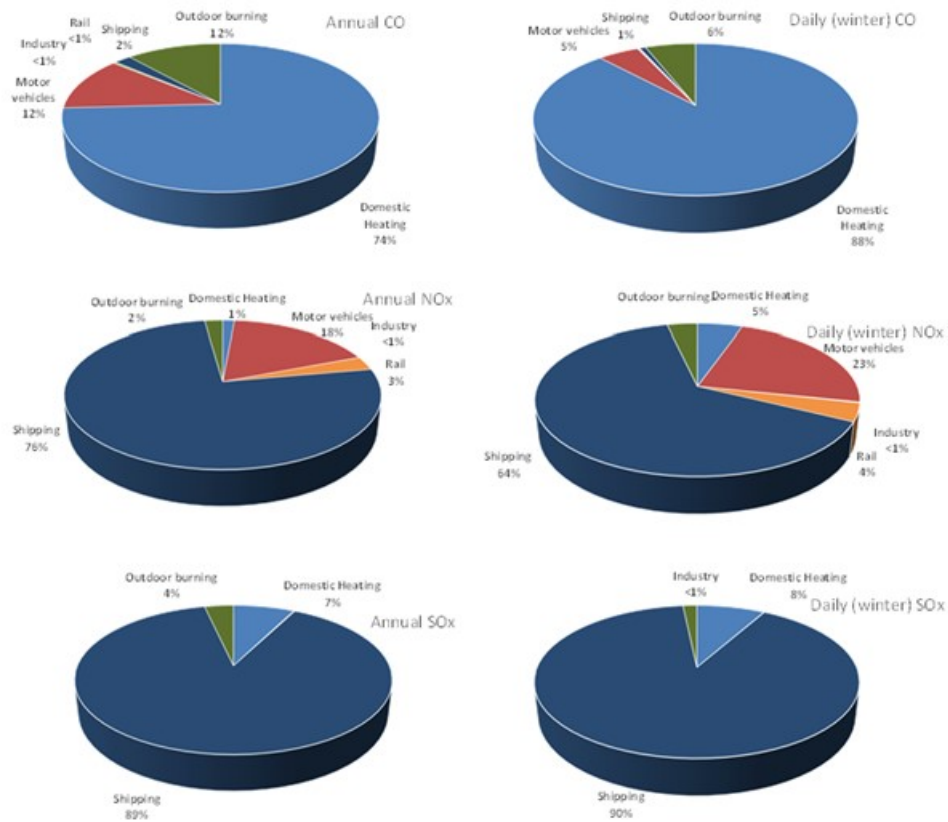
- 50. Similar relative contributions of sources to daily winter and annual average PM<sub>2.5</sub> were found.



**Relative contribution of sources to annual and daily winter PM<sub>2.5</sub> emissions.**

- 51. Domestic home heating is also the main source of daily winter CO, while shipping is the main source of NO<sub>x</sub> and SO<sub>x</sub> in Picton.





Relative contribution of sources to daily winter and annual contaminant emissions.

### Picton Air Quality Monitoring Update

52. Past air quality monitoring in Picton suggested that the town had the potential to exceed the NES for PM<sub>10</sub>. However, past monitoring was not continuous and previous wintertime data was not conclusive on this matter.
53. In late 2018 the community raised strong concerns to Council about the air quality in the town. As a result, a yearlong continuous screening study was carried out by NIWA from mid-2019 to September 2020 to assess if NES compliant monitoring station(s) were required for the town. PM and various gases were measured as well as meteorological monitoring to help understand the air movement around the town.
54. The results of the study indicated that elevated PM<sub>10</sub>, NO<sub>x</sub> and SO<sub>x</sub> levels could reach and exceed guideline levels in the town triggering the requirement for NES compliant monitoring. The results showed that different areas of the town experienced different contaminant exceedances meaning there is a requirement for different monitoring sites for PM<sub>10</sub> and NO<sub>x</sub>/SO<sub>x</sub> contaminants.
55. The Council was successful in February 2023 in receiving Better Off Funding to fund the establishment of this NES compliant monitoring in Picton.
56. Two sites have recently been selected within the town that practically meet the representative site requirements of the NES, one for PM<sub>10</sub> monitoring and the other for NO<sub>x</sub>/SO<sub>x</sub> monitoring.





**Location of proposed PM monitoring site.      Location of proposed NO<sub>x</sub>/SO<sub>x</sub> monitoring site.**

- 57. Under the Marlborough Environment Plan this monitoring is enabled as a permitted activity, however the two sites are located within reserves and these activities require Council approval once an assessment has been made by the Reserves Team against each reserves' management plan. It is hope that this will be before the Assets and Services Committee in April 2023.
- 58. While waiting for this approval, PM monitoring and site set up equipment has been ordered and a contractor has been found to carry out the more technical monitoring for the NO<sub>x</sub>/SO<sub>x</sub> which is to be undertaken for the period of a year.

**Next steps**

- 59. To update the Council's website pages relating to air quality with the 2022 report.

**Presentation**

A short presentation will be given by Sarah Brand (10 minutes).

**Attachment**

**Attachment 1** – Picton Air Emissions Inventory 2022 is available on Council's website via the following link <https://www.marlborough.govt.nz/your-council/meetings>

Author	Sarah Brand, Strategic Planner
Authoriser	Hans Versteegh, Environmental Science & Policy Group Manager

## 10. Biosecurity – RPMP Amendment Appeal Proceedings

(also refer separate report available on Council's website)

(Clr Faults) (Report prepared by Jono Underwood)

E315-002-008-05

### Purpose of Report

1. To update the Committee on the Environment Court proceedings from an application made to the Court by a submitter on the 2020 amendment to the Regional Pest Management Plan (RPMP).
2. Seek ratification of an Appeal lodged by Council with the High Court on the interim decision of Environment Court received on 17 March 2023.

### Executive Summary

3. An interim decision of the Environment Court was released on 17 March 2023 covering the contested hearing held on the Regional Pest Management Plan (RPMP) amendment notified by Council in 2020.
4. The Court has instructed the parties to undertake further drafting steps, however one of the final decisions was that a Site-Led programme be developed and inserted into the RPMP as it relates to the Stronvar property in the Waihopai Valley.
5. Council has lodged an Appeal to the High Court on points of law in relation to the decision released by the Environment Court. This primarily relates to the precedence such a decision sets for the making of pest management plans under the Biosecurity Act 1993.
6. The Appeal was required to be lodged with the High Court by 11 April 2023.

### RECOMMENDATIONS

1. **That the information be received.**
2. **That the Council ratifies the lodgement of an Appeal with the High Court on the interim decision of Environment Court received by Council on 17 March 2023.**

### Background

7. Council notified a decision to amend its Regional Pest Management Plan (RPMP) in July 2020 to incorporate a new programme for 'pest conifers'.
8. As a submitter during the amendment process, Mr. Evans appealed the decision under section 76 of the Biosecurity Act 1993 to the Environment Court.
9. Mediation was undertaken but did not result in a position accepted by both parties.
10. This led to a contested Environment Court hearing held in September 2022.
11. Mr. Evan's concerns can be summarised as:
  - a) a lack of specific clarity about what is to occur (or not occur) on his property in relation to the management of pest conifers.
  - b) concerns of potential erosion or indigenous vegetation damage should control works take place.
  - c) Council not being specifically identified as an exacerbator or liable for the trees (given the former Marlborough Catchment Board planted the trees in the Wye/Breezer catchment up wind).
12. Mr Evan's desired outcome was that clearly defined provisions be inserted into the RPMP as it related to his property - Stronvar. This included a defined 'containment area' as had been used in former 2017-2012 Regional Pest Management Strategies, and clear statements placing liability for management of the wilding conifers on Council.

13. Council's response during proceedings centred around the appropriateness of property-specific provisions in what was a regional programme providing a new regional-scale framework.
14. Council also argued that site-specific operational matters are best addressed at that operational level during plan implementation when or even if physical works are planned.
15. Lastly, Council argued that matters such as erosion and/or indigenous vegetation clearance are matters already addressed via other statutes that need to be complied with. They are not matters available to Council to give specific consideration when justifying a Site-Led programme within a plan made under the Biosecurity Act 1993.

### **Option One (Recommended Option) – Ratify the Appeal lodged with the High Court**

16. Council staff will continue to work with legal representation to work through the Appeal process on points of law in the High Court. This would also involve an immediate request for a stay on the Environment Court proceedings.

#### *Advantages*

17. As the first contested case on plan making under the Biosecurity Act 1993, a judgement of the High Court will provide sound case law in relation to plan making provisions.
18. A decision on points of law will also be advantageous to both other regional councils/unitary authorities and even national bodies who work with national pest/pathway management plans.
19. Clarity will be provided on Council's position it has held throughout the plan making and Environment Court proceedings.

#### *Disadvantages*

20. The legal representation costs that will be incurred.

### **Option Two – Withdrawal the Appeal lodged with the High Court and follow the directions of the Environment Court interim decision**

21. Council shall withdraw the High Court Appeal and request the removal of the stay on Environment Court proceedings.
22. Council staff would then work through the directions in developing wording/content for insertion into the Regional Pest Management Plan in accordance with Court directions.

#### *Advantages*

23. Lower costs associated with legal representation finalising the Environment Court directed steps.

#### *Disadvantages*

24. In accordance with Council's original position, the resulting provisions within the amended RPMP will be both out-of-step with the regional framework and set a difficult precedent with respect to case law.

### **Next steps**

25. Should Council adopt the recommendations within this report, Council staff will continue to work through the Appeal proceedings.

### **Attachment**

**Attachment 1** – ENVCHC 48 Decision – Evans v MDC 17 March 2023 is available on Council's website via the following link <https://www.marlborough.govt.nz/your-council/meetings>

Author	Jono Underwood, Biosecurity Manager
Authoriser	Hans Versteegh, Environmental Science & Policy Group Manager

<b>Summary of decision-making considerations</b>			
<b>Fit with purpose of local government.</b>			
The proposal enables Council to fulfil its regional leadership role as outlined by section 12B of the Biosecurity Act 1993 and outlined within Council's Biosecurity Strategy.			
<b>Fit with Council policies and strategies</b>			
	<i>Contributes</i>	<i>Detracts</i>	<i>Not applicable</i>
LTP / Annual Plan	<input type="checkbox"/>	<input type="checkbox"/>	X
Financial Strategy	<input type="checkbox"/>	<input type="checkbox"/>	X
Infrastructure Strategy	<input type="checkbox"/>	<input type="checkbox"/>	X
Social well-being	<input type="checkbox"/>	<input type="checkbox"/>	X
Economic development	<input type="checkbox"/>	<input type="checkbox"/>	X
Environment & RMA Plans	X	<input type="checkbox"/>	<input type="checkbox"/>
Arts & Culture	<input type="checkbox"/>	<input type="checkbox"/>	X
3 Waters	<input type="checkbox"/>	<input type="checkbox"/>	X
Land transport	<input type="checkbox"/>	<input type="checkbox"/>	X
Parks and reserves	<input type="checkbox"/>	<input type="checkbox"/>	X
This proposal contributes Council's Biosecurity Strategy and proposed direction for regional management of pest conifers set out in the 2020 decision on the amendment.			
<b>Nature of the decision to be made</b>			
The options do not involve a significant decision in relation to land or a body of water.			
<b>Financial considerations</b>			
The costs associated with legal proceedings will be accounted for within the Biosecurity operational budgets in both 2022/23 and future financial years.			
<b>Significance</b>			
The decision is considered of low significance under Council's Significance and Engagement Policy.			
<b>Engagement</b>			
No engagement is proposed as this is a specific legal process with some aspects subject to legal privilege.			
<b>Risks: Legal / Health &amp; Safety etc</b>			
The recommended option carries the risk (as with any legal proceedings) of a judgment ultimately not in favour of Council. This will have a financial implication associated with legal costs (including for both parties depending on the judgement on costs). Additionally, there is the long term risk around Biosecurity policy and/or pest plan making as a result of the precedence setting nature of the case.			
<b>Climate Change Implications</b>			
There are no known climate change implications to this decision.			

# 11. Appeals on the PMEP

(The Chair) (Report prepared by Pere Hawes)

M100-09-01

## Purpose of Report

1. To inform the Committee of progress with resolving appeals made to the Environment Court on the PMEP.

## Executive Summary

2. 51 notices of appeal on the PMEP were lodged with the Environment Court.
3. Mediation on all topics has now occurred, except for Topic 2: Water Allocation and Use. Mediation on Topic 2: Water Allocation and Use is currently occurring.
4. Good progress has been made in resolving appeals. Since the last report to the Environment and Planning Committee on 2 February 2023, six further consent memoranda have been submitted to the Environment Court.
5. Since the last report to the Environment and Planning Committee on 2 February 2023, the Court has issued nine further consent orders. The consent orders resolve appeals in a wide variety of topics.

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## RECOMMENDATION

That the report be received.

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## Background/Context

6. The PMEP Hearings Panel publicly notified their decision on the PMEP on 22 February 2020.
7. The Environment Court received 51 notices of appeal. The list of appellants is attached as Attachment 1. The full notices of appeal are available on the Council website: <https://www.marlborough.govt.nz/your-council/resource-management-policy-and-plans/proposed-marlborough-environment-plan/decisions-on-the-pmep/appeal-process/appeals-received>.
8. A significant number of Section 274 notices were lodged with the Environment Court. This allows parties that have an interest in an appeal that is greater than the general public interest, or parties that originally submitted on the same provision subject to the appeal, to join the proceedings. The large number of Section 274 parties will make the process of reaching mediated agreements more complex.
9. The Environment Court manages all appeal processes in accordance with their Practice Note 2023. There are typically three options. The matters subject to appeal can be resolved between the parties (informal mediation), they may be resolved through Court assisted mediation (formal mediation), or they may proceed to Court hearing (in which case the Environment Court determines the outcome). Appellants may also withdraw their notice of appeal.
10. In accordance with Council's Instrument of Delegation, any agreed settlement between the parties achieved through mediation must be approved by either the Manager of Environmental Policy or the Manager of Environmental Policy, Science and Monitoring, or otherwise deferred back to the Committee. The Managers are required to consult with the Chair as part of the process of reaching agreement.
11. Given the number of appeal points (1307), the resolution of appeals has been a focus of the work programme of the Environmental Policy Group for some time and will continue to be so.

12. A structure, process and timeline for managing the mediation of appeals was proposed by the Council and confirmed by the Environment Court in December 2020. Appeals have been structured according to topic and topics have then been grouped for scheduling reasons. All groups and topics have been scheduled. Progress with mediation is set out below.
13. An agreement to resolve appeals from either formal or informal mediation is referred to as a “consent memorandum”. If the Court agrees to the mediated agreement, it confirms the agreement by way of a Court decision called a “consent order”.

### **MEP Appeals Version**

14. An appeals version of the PMEP has been produced, identifying provisions that are subject to appeal. This is available on the Council website: <https://www.marlborough.govt.nz/your-council/resource-management-policy-and-plans/proposed-marlborough-environment-plan/decisions-on-the-pmep/appeal-process/appeals-version-of-the-pmep>. The PMEP Appeals Version is being updated on an ongoing basis as appeals are resolved and consent orders are issued by the Environment Court.

### **Progress with resolution of appeals**

15. To date, ten appeals have been resolved in full and four appeals have been withdrawn. The status of all appeals is recorded in Attachment 1. There are a total of 37 notices of appeal remaining.
16. A total of 34 consent orders have been issued by the Environment Court.
17. Since the last update on 2 February 2023, a further six consent memoranda have been submitted to the Environment Court for its consideration. Including those consent memoranda already submitted to the Court, there are currently eight proposals to resolve appeals.
18. Since the last report to the Environment and Planning Committee on 2 February 2023, the Court has issued nine further consent orders. The consent orders resolve appeals in a wide variety of topics (see below).
19. All future consent orders issued by the Environment Court will be reported to the Committee through subsequent updates.
20. Discussions during mediation have been positive and outcome focussed, and substantial progress has been made on resolving appeals. All appeal points have now been considered through mediation processes or are in the process of being considered.

### **Environment Court Mediation**

21. Matters discussed during mediation are confidential to the parties to allow discussions to occur on a without prejudice basis. For this reason, an update on progress with resolution of the specific appeal points or the detail of the resolution is unable to be provided to the Committee as part of this agenda item. As per the Council delegation, the Chair of the Environment and Planning Committee was briefed about the general course of the mediation to date and on the specific agreed outcomes from that mediation.
22. The mediation process is overseen by an Environment Court Commissioner.
23. Mediation has now occurred on 21 of the 22 topics, with mediation on Topic 2: Water Allocation and Use underway at the time of preparing this report.
24. All consent orders issued by the Environment Court referenced in this report can be accessed here: <https://eservices.marlborough.govt.nz/programmes/ListProgrammeEvents?id=2621046#info-2677877>.
25. As recorded above, all consent orders are incorporated into the PMEP Appeals Version.

### *Natural Character*

26. Mediation on the Natural Character has involved lengthy mediation and discussions between the parties since February 2021, as set out in previous reports to the Committee.
27. Most appeal points have now been agreed and a consent memorandum was submitted to the Court on 13 March 2023. A consent order is now pending.
28. Progress has also been made with two appeal points relating to the natural character overlays as they apply in Cook Strait and a consent memorandum was submitted to the Court on 28 February 2023 to resolve these appeal points (in part for one of the appeal points). A consent order is now pending.
29. Finally, agreement was recently reached on how the PMEP regulates activities near waterbodies with high or very high natural character. A consent memorandum was submitted to the Court also on 13 March 2023. A consent order is now pending.
30. Many of the remaining appeal points are on hold pending the outcome of Variation 1.

### *Indigenous Biodiversity*

31. Mediation on the Indigenous Biodiversity has involved lengthy mediation and discussions between the parties since June 2021, as set out in previous reports to the Committee.
32. A consolidated consent memorandum was submitted to the Environment Court on 2 December 2022 and the Court issued a consent order for this appeal point on 15 February 2023.
33. The parties to the King Shag appeals applying to breeding sites reached agreement and a consent memorandum was lodged with the Environment Court on 25 July 2022. The Court issued a consent order for this appeal point on 28 January 2023.
34. A separate schedule for the exchange of evidence was also determined by the Environment Court for appeals related to King Shag habitat and Important Bird Areas not resolved. Friends of Nelson Haven and Tasman Bay are seeking a consenting regime apply to bottom trawling and dredging in the Marlborough Sounds Important Bird Area. Council submitted its evidence on this matter on 27 January 2023. The evidence exchange is completed by the end of April 2023. No Court hearing has been scheduled at this point in time.
35. The parties to the indigenous vegetation clearance rules reached agreement and a consent memorandum was lodged with the Environment Court on 13 March 2023. A consent order is now pending. There is one outstanding matter yet to be resolved for the indigenous vegetation clearance rules and a work programme for this is currently being implemented.
36. The parties have requested further mediation on appeals to Appendix 3, criteria for ecological significance. Although progress was made on appeals on the appendix at the September 2022 mediation, there remain differences between some of the parties. The Environment Court has allocated 17 May for this mediation to occur.
37. Many of the remaining appeal points are on hold pending the outcome of Variation 1, the gazettal of the National Policy Statement for Indigenous Biodiversity or other processes.

### *Transportation*

38. There have been dedicated workstreams that stem from the mediation aiming to progress matters not agreed at mediation.
39. A consent order was submitted to the Environment Court on 16 December 2022 to resolve the KiwiRail appeal point on rail safety setbacks. The Court issued a consent order for these appeal points on 15 February 2023.
40. Waka Kotahi have decided not to pursue their appeal relating to the maintenance of roadside drains as a result of discussions.

41. Progress is being made on the remaining three workstreams.

### *Natural hazards*

42. Discussion continues between the relevant parties on the outstanding appeal points relating to the flood hazard overlays at Tuamarina and the status of maimai.
43. The flood risk at Tuamarina has been reviewed following flood events of 2021 and 2022 and the results of the review have been conveyed to the appellants. One of the appellants has agreed to resolve their appeal point based on the results of the review and consent documentation will now be prepared. Council awaits confirmation from the other appellant as to whether this review also resolves their appeal point.

### *Waste and discharge of contaminants to land*

44. A consent memorandum on the matters agreed at mediation was submitted to the Environment Court on 7 October 2022. The Court issued a consent order for this appeal point on 28 January 2023.
45. There were two dedicated workstreams that stemmed from the mediation to progress matters not agreed. One is on hold pending mediation on the Water Quality topic that occurred in February.
46. Agreement was reached on the final outstanding appeal point, which related to fertiliser application and nutrient load. A consent memorandum was lodged with the Environment Court on 27 March 2023. A consent order is now pending.

### *Soil quality and land disturbance*

47. A consent memorandum on the matters agreed at and post mediation was submitted to the Environment Court on 1 March 2023. A consent order is now pending.

### *Rural*

48. The Court issued a consent order for this topic on 31 January 2023.

### *Forestry*

49. Agreement was reached on all but two of the appeal points at mediation. The Court issued a consent order for this topic on 31 January 2023.
50. The remaining two appeal points are on hold pending the gazettal of the NPS for Indigenous Biodiversity.

### *Coastal*

51. Agreement was reached on all appeal points except for the appeals on coastal occupancy charge provisions. A consent memorandum was submitted to the Environment Court on 1 November 2022. The Court issued a consent order for this topic on 31 January 2023.
52. The parties have committed to workstreams to either narrow or resolve the appeals on coastal occupancy charges.
53. In addition to the formal mediation, informal mediation on appeal points made by Port Marlborough NZ Ltd in this topic has been ongoing since 2020. Agreement was reached between the parties in 2022 and a consent memoranda (one for appeals with no Section 274 parties and one for appeal with Section 274 parties) were submitted to the Environment Court on 14 September 2022. The Court issued a consent order for first consent memorandum on 23 December 2022 and issued a consent order for the second consent memorandum on 31 January 2023.

### *Zoning*

54. The last remaining appeal related to the zoning of the KiwiRail site at Spring Creek. Further discussions achieved resolution of the outstanding appeal point and a consent memorandum for the topic was submitted to the Environment Court on 15 December 2022. A consent order is now pending.



### *Miscellaneous*

55. Agreement was reached on most appeal points at mediation and a consent memorandum was submitted to the Environment Court on 22 December 2022. The Court issued a consent order for this topic on 22 February 2023.
56. The remaining appeal points are on hold pending the outcome of Variation 1.

### *Water Quality*

57. Mediation on Topic 15: Water Quality occurred on 13-15 and 21-23 February 2023. A total of 50 appeal points considered during mediation.
58. The mediation was more complex than usual because of the relationship between the appeal points and the provisions of the NPSFM 2020 (which did not exist at the date of decision or at the time that the decisions were subject to appeal).

### *Water Allocation and Use*

59. Mediation on Topic 2: Water Allocation and Use is underway at the time of preparing this report. A total of 91 appeal points considered during mediation.
60. As for Topic 15: Water Quality, the mediation is complicated by the relationship between the appeal points and the provisions of the NPSFM 2020. (which did not exist at the date of decision or at the time that the decisions were subject to appeal).

### **Next steps**

61. As set out above, the Environment Court has issued six further consent orders since the last report to the Committee.
62. A total of eight consent memoranda are now with the Court for consideration and a further consent memorandum is in preparation. Any resulting consent orders issued by the Court will be reported to the Committee through future updates.
63. Mediation occurred for the following topics as follows:
  - Water Quality (February 2023)
  - Water Quantity (March/April 2023)
64. These two topics contain a significant number of appeal points (141).
65. Further mediation will also now to occur for unresolved Indigenous Biodiversity appeal points in May 2023.
66. A timetable for the exchange of evidence for the remaining appeal point for Important Bird Areas is in place and is being implemented.
67. Informal mediation on other outstanding matters is ongoing. The results will be reported to the Environment Court in accordance with the Court's directions.
68. Progress with the resolution of appeals will continue to be regularly reported to the Committee through future agenda items.

Author	Pere Hawes, Manager Environmental Policy
Authoriser	Hans Versteegh, Manager of Environmental Policy, Science and Monitoring

**Attachment 1**

<b>Appellant</b>	<b>Environment Court Reference</b>	<b>Status</b>
Dominion Salt Limited v Marlborough District Council	ENV-2020-CHC-21	Resolved
GJ Gardner v MDC	ENV-2020-CHC-31	Resolved
Timberlink New Zealand Limited v MDC	ENV-2020-CHC-30	Withdrawn
Talley's Group Limited v MDC	ENV-2020-CHC-32	Resolved
Nelson Marlborough Fish and Game v MDC	ENV-2020-CHC-35	
Chorus New Zealand Limited and Spark New Zealand Trading Limited v MDC	ENV-2020-CHC-37	Resolved
Okiwi Bay Ratepayers Association v MDC	ENV-2020-CHC-38	Resolved
Te Rūnanga a Rangitāne o Wairau v MDC	ENV-2020-CHC-39	Resolved
Minister of Conservation v MDC	ENV-2020-CHC-42	
Aroma (N.Z.) Limited and Aroma Aquaculture Limited v MDC	ENV-2020-CHC-45	
Te Rūnanga o Kaikōura and Te Rūnanga o Ngāi Tahu v MDC	ENV-2020-CHC-46	
McGuinness Institute v MDC	ENV-2020-CHC-48	Resolved
Matthew Burroughs Broughan v MDC	ENV-2020-CHC-52	
Port Marlborough New Zealand Limited v MDC	ENV-2020-CHC-49	
Trustpower Limited v MDC	ENV-2020-CHC-50	
The New Zealand King Salmon Co. Limited v MDC	ENV-2020-CHC-51	
Jennifer Susan Cochran v MDC	ENV-2020-CHC-53	Resolved
One Forty One (previously Nelson Forests) v MDC	ENV-2020-CHC-54	
Colonial Vineyard Ltd v MDC	ENV-2020-CHC-59	Withdrawn
Villa Maria Estate Limited v MDC	ENV-2020-CHC-61	
New Zealand Transport Agency v MDC	ENV-2020-CHC-56	
Transpower New Zealand Limited v MDC	ENV-2020-CHC-68	
Royal Forest and Bird Protection Society of New Zealand Incorporated v MDC	ENV-2020-CHC-64	
KiwiRail Holdings Limited v MDC	ENV-2020-CHC-57	
J V Meachen v MDC	ENV-2020-CHC-69	
Te Runanga o Ngati Kuia Trust v MDC	ENV-2020-CHC-70	
Brentwood Vineyards Limited and others v MDC	ENV-2020-CHC-66	
BP Oil New Zealand Limited, Mobil Oil New Zealand Limited and Z Energy Limited v MDC	ENV-2020-CHC-72	Resolved
Horticulture New Zealand v MDC	ENV-2020-CHC-72	
Rebecca Light v MDC	ENV-2020-CHC-79	
East Bay Conservation Society Incorporated v MDC	ENV-2020-CHC-78	
Minister of Defence v MDC	ENV-2020-CHC-76	
Levide Capital Ltd v MDC	ENV-2020-CHC-65	Withdrawn
Delegat Limited v MDC	ENV-2020-CHC-75	
AJ King Family Trust and SA King Family Trust v MDC	ENV-2020-CHC-73	

<b>Appellant</b>	<b>Environment Court Reference</b>	<b>Status</b>
Environmental Defence Society Incorporated v MDC	ENV-2020-CHC-67	
Federated Farmers of New Zealand v MDC	ENV-2020-CHC-58	
Sanford Limited v MDC	ENV-2020-CHC-60	
Friends of Nelson Haven and Tasman Bay Inc	ENV-2020-CHC-33	
Omaka Valley Group Inc	ENV-2020-CHC-34	
Heritage New Zealand Pouhere Taonga	ENV-2020-CHC-36	Resolved
HARO Partnership	ENV-2020-CHC-40	
KPF Investments Limited and United Fisheries Limited	ENV-2020-CHC-41	
Te Ātiawa o Te Waka-a-Māui Trust	ENV-2020-CHC-43	Withdrawn
Beleve Limited, RJ Davidson Family Trust and Treble Tree Holdings Limited	ENV-2020-CHC-44	
Goulding Trustees Limited and Shellfish Marine Farms Limited	ENV-2020-CHC-47	
Clearwater Mussels Limited and Talley's Group Limited	ENV-2020-CHC-55	
Oldham and Others	ENV-2020-CHC-62	
Apex Marine Farm Limited	ENV-2020-CHC-63	
Marine Farming Association Incorporated and Aquaculture New Zealand	ENV-2020-CHC-74	
Just Mussels Ltd, Tawhitinui Greenshell Ltd and Waimana Marine Ltd	ENV-2020-CHC-77	

## 12. Gambling Venue Policy Review

(Clr Sowman) (Report prepared by Georgia Murrin)

E350-004-009-02

### Purpose of Report

1. To provide Council with an update on the proposed changes to the Gambling Venue Policy which is required to be reviewed every 3 years.

### Executive Summary

2. Under the Gambling Act 2003 and the Racing Industry Act 2020, Territorial Authorities (TA's) can approve consents for Class 4 (pokie machines) gambling venues and standalone (TAB) venues.
3. Both Acts require TA's to have a policy that guides if, where and how many Class 4 and TAB venues and machines may be established in the district.
4. When reviewing these policies Council must consider the social impacts of gambling in our community.
5. The purpose of this report is to:
  - a) Set out the options for Council in reviewing a Gambling Venue policy.
  - b) Propose changes to the current Class 4 Venues and Racing Board Venues Policy (Appendix 1)
  - c) Propose a Statement of Proposal (appendix 2) and commence the special consultative procedure on the proposal decided upon.
  - d) Appoint a sub-committee to hear submissions.

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## RECOMMENDATIONS

### That Council:

1. **Approve consultation on the proposed Gambling Venue Policy 2023 using special consultative procedures under s83 of the Local Government Act 2002.**
2. **Approve a sub-committee of Clrs Barbara Faulls (Chair), Thelma Sowman and Ben Minehan to hear and deliberate on any submissions received on the proposed policy changes.**

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## Background

6. The Department of Internal Affairs (DIA) is the main regulator of gambling in New Zealand, however under the Gambling Act 2003 (section 101) and Racing Industry Act 2020 (section 96) every TA must adopt a Class 4 and TAB venue policy.
7. This policy must be reviewed every three years. The current policy was adopted on 17 May 2018 with a review completed in December 2020 confirming the policy would remain with no changes.
8. The Racing Act 2003 has been repealed and replaced by the Racing Industry Act 2020 which came into force in 1 August 2020.
9. A Gambling Policy does not cease to have effect because it is due for review or being reviewed.
10. The Gambling Act was passed by Parliament on 11 September 2003.
11. Council adopted its first Gambling Venue Policy in early 2004.

12. Gambling activities in New Zealand are classified on a scale of 1-4 with Class 4 (pokies) being high-risk, high reward gambling. Class 4 gambling has the highest turnover of all gambling forms and the highest risk in terms of harm and fraud. Given this risk TA's must choose to develop policies that are restrictive or permissive depending on their own district's needs.
13. This policy must have regard for the social impacts of all gambling within the district.
14. Class 4 and TAB venues must apply for consent to the TA for where the venue is to be located.
15. Under the Gambling (Gambling Harm Reduction) Amendment Act 2013 a TA must consider adopting a Class 4 Venue relocation policy. This was adopted in the policy in 2018.
16. The previous major changes to the policy in 2018 were adopting a relocation policy and reducing the total cap number of gaming machines from 258 to 240.
17. No further amendments have been made to this policy since.
18. This proposed policy has been prepared in accordance with section 101 of the Gambling Act 2003 and section 96 of the Racing Industry Act 2020.

## **Overview of Gambling in Marlborough.**

### **Trends in Gaming Venues and Gaming Machines across Marlborough**

19. According to the Household Economic Survey (2016) from Stats NZ, New Zealanders spend roughly 11 billion dollars a year on all forms of entertainment.
20. There are 1028 Class 4 Gaming Venues in New Zealand and 14,503 pokie machines nationwide.
21. In the 12-month period ending December 2022 nationally the gambling machine profits (GMP) was \$1,014,581,834.13.
22. In Marlborough for the same year period the GMP were \$11,955,524.85.
23. Compared to 2021 the GMP were \$11,723,273.51, which means there was a 2% increase in GMP in Marlborough comparing 2021 to 2022.
24. There are currently 12 venues operating in the Marlborough District and 165 gaming machines.
25. In March 2015 there were 20 venues in operation and 249 gaming machines. This means there has been a 40% reduction in venues and 33.7% reduction in gaming machines.<sup>1</sup>
26. Please refer to appendix 3 for graphs of the above figures. These figures discussed above were released by the DIA and can be found using the following link.  
<https://catalogue.data.govt.nz/dataset/gaming-machine-profits-gmp-dashboard>
27. A key factor that has occurred in this period which has influenced the total number was the closure of the Clubs of Marlborough venue which had gaming machines associated to that venue. The Clubs of Marlborough had consent for 30 gaming machines however their licence expired on 30 September 2022.
28. A new entity can apply for a New Venue Licence with 9 machines currently.

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<sup>1</sup> Department of Internal Affairs, *Gaming Machine Profit (GMP) Dashboard*  
<https://catalogue.data.govt.nz/dataset/gaming-machine-profits-gmp-dashboard>

29. Section 94 of the Gambling Act 2003 limits the number of gaming machines for a venue with a venue licence granted after commencement of the Act. This is set at 9 machines unless approved by the Minister under section 96 of the Act.
30. Approximately \$12,000,000 was spent on pokies in pubs, clubs and TABs in Marlborough District during 2021. This is approximately \$2,000,000 more than in 2020. That averages to around \$32,000 each day.
31. Almost two thirds of all Class 4 pokie venues in Aotearoa are in medium, high or very high areas of deprivation. In Marlborough, 10 out of the 14 venues are in the most deprived communities, disproportionately affecting those who can least afford it.
32. The median income in the Marlborough District is \$31,500 and on average, every machine in Marlborough makes \$58,325 per year. This means a pokie machine makes \$26,825 more each year than the average person in the district<sup>2</sup>.

### **Community Benefit**

33. The current New Zealand Gambling Model returns hundreds of millions of dollars to the community. This is returned annually to the community from the proceeds of gambling involving electronic gaming machines or pokies in pubs and hotels.
34. Corporate societies are licensed by DIA to operate gambling machines in clubs or commercial venues (pubs and boards). A proportion of the money gamblers lose on gaming machines is distributed to community groups by the corporate societies by the way of grants for authorised purposes.<sup>3</sup>
35. In the latest DIA data (January to June 2022) 151 million pokie funding was given with the sports category receiving the largest amount of funding at 76.2 million.<sup>4</sup>
36. There were 5,800 organisations receiving the pokie grants in the same period.

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<sup>2</sup> PGF Group, Marlborough Fact Sheet  
<https://www.pgf.nz/downloads/assets/21276/1/pokies%20by%20numbers%202022-marlborough.pdf>

<sup>3</sup> Internal Affairs, 2016. *Pokie System 101*

<sup>4</sup> Regulating Gambling for Aotearoa, 2022. *Class 4 Grants Analytical Review 2022 (Jan-June)*

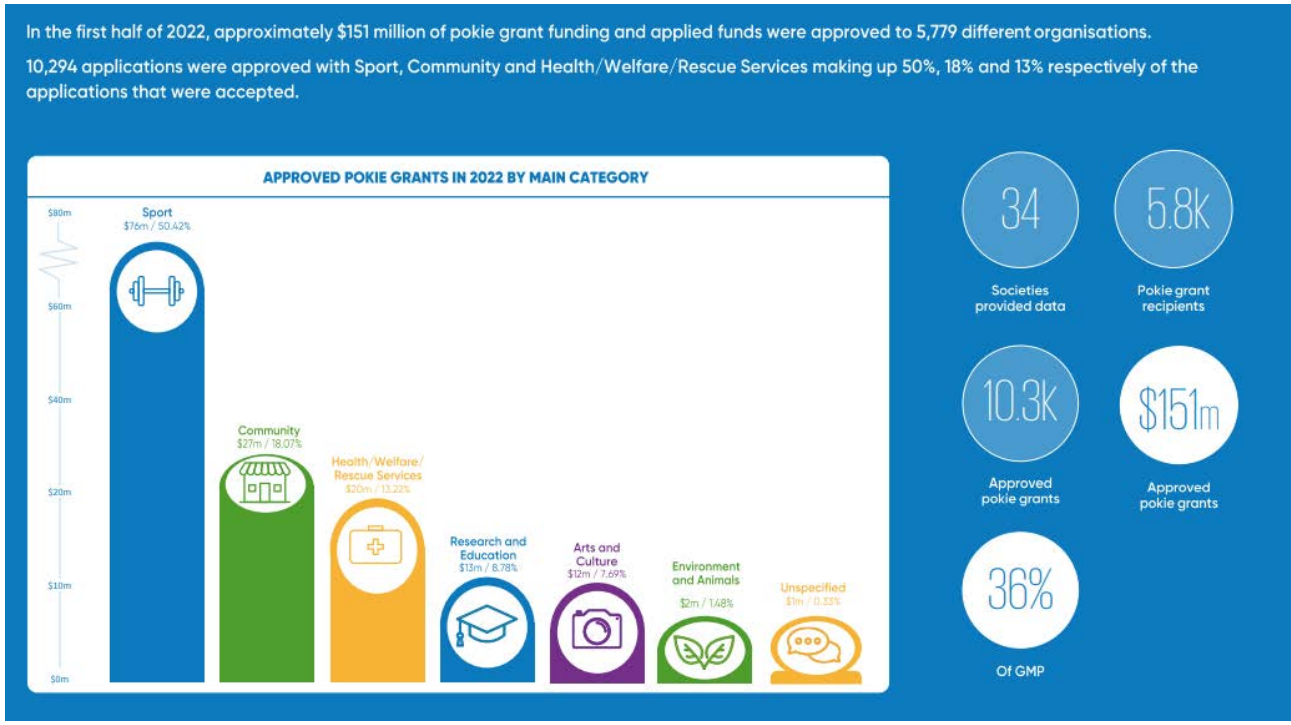


Figure 1: Class 4 Grants Data Analytical Review ([https://www.dia.govt.nz/diawebsite.nsf/Files/Gambling-Class-4-Grants-Data-Review/\\$file/Class-4-Data-Analytical-Review-Interim-Report-2022-\(Jan-June\).pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Gambling-Class-4-Grants-Data-Review/$file/Class-4-Data-Analytical-Review-Interim-Report-2022-(Jan-June).pdf))

37. However, not all money spent by gamblers on pokies is returned to the community. Societies must allocate a minimum of 40% of gaming machine proceeds, excluding GST, in each financial year. They are often able to distribute more. This graph below shows the allocation of gaming machine proceeds.

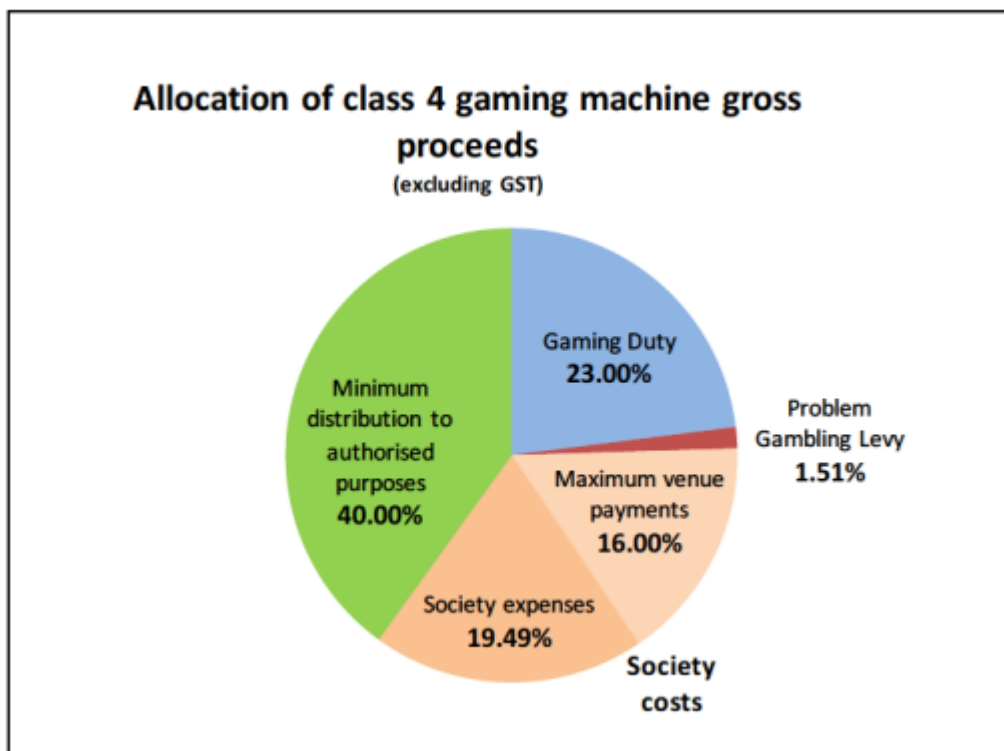


Figure 2: Guide: Pokies in New Zealand ([https://www.dia.govt.nz/diawebsite.nsf/Files/Pokie-system-101-untracked/\\$file/Pokie-system-101-untracked.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Pokie-system-101-untracked/$file/Pokie-system-101-untracked.pdf))

- 38. Corporate societies own the machines at a venue and enter agreements with the venues to host the societies gaming machines in return for a commission payment based on weekly turnover. This turnover depends on how many people use them and how often.
- 39. In the 2021 calendar year Marlborough's profit from pokies was \$11,823,274.20. Of this \$2,191,799 was granted to the Marlborough community. That means approximately 18% was returned to the Marlborough District directly. This data can be found on [www.granted.govt.nz](http://www.granted.govt.nz).

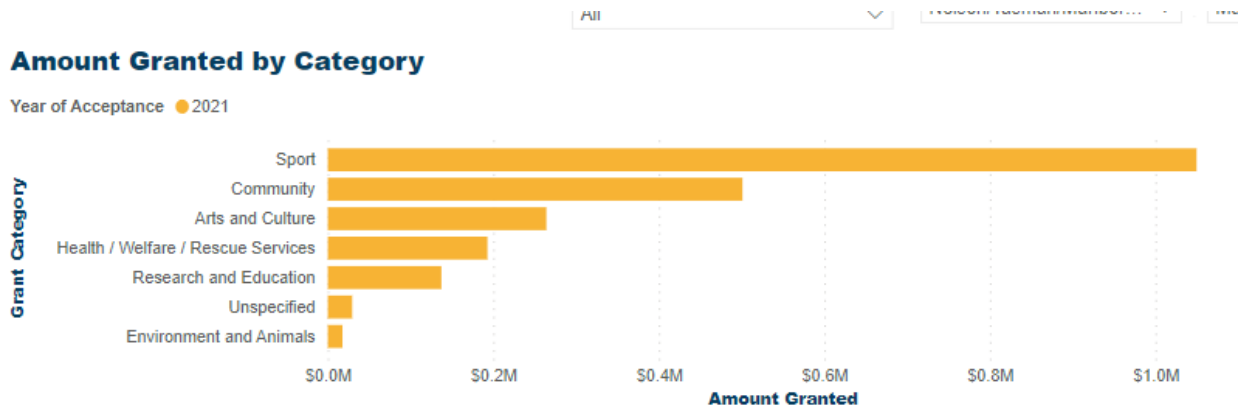


Figure 3: Amount granted by Category ([granted.govt.nz/dashboard.html](http://granted.govt.nz/dashboard.html))

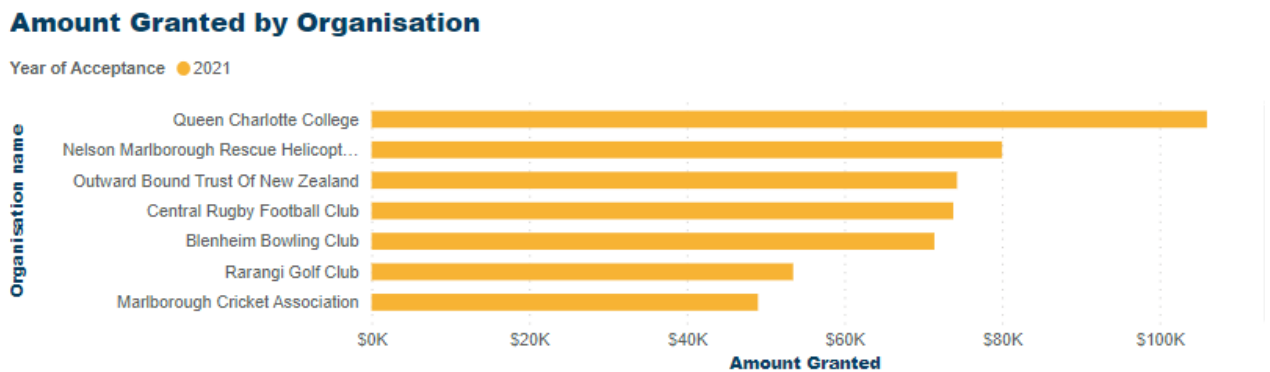


Figure 4: Amount Granted by Organisation ([granted.govt.nz/dashboard.html](http://granted.govt.nz/dashboard.html))

- 40. As discussed in The Gaming Machine Association of New Zealand's Feedback on Marlborough District Council's Gambling Venue Policy report provided by Jarrod True, approximately 6% of all grants are made to national and regional organisations. For example, if St John sought funding for a new ambulance for the Blenheim station, the funding application would be made by the Auckland-based head office and the funding allocated to Auckland, despite the grant having a direct benefit to the Marlborough Community.

**Social Impact of Gambling**

- 41. Gambling is a public health concern. Harm from problem gambling (as defined in the Gambling Act 2003) affects many people other than the gambler.
- 42. Gambling harm is a significant social and economic issue. It is estimated that one in five people in New Zealand will experience harm in their lifetime due to their own or someone else's gambling.



43. Research shows that Māori, Pacific peoples, some Asian communities and young people/rangitahi, and people on lower incomes are disproportionately affected.<sup>5</sup>
44. Most New Zealanders gamble at least occasionally. It was estimated that in 2020 69.3% (2.8 million) New Zealanders 16 years and older participated in some form of gambling in the previous 12 months.<sup>6</sup>
45. Of this 10.9% were from betting provided by TAB NZ and 9.6% from gaming machines at a pub or club.<sup>4</sup>
46. Majority of people who participate in some form of gambling find it enjoyable. Gambling for a non-addicted gambler can be a form of socialising, stress-relief, and a way of having fun.
47. Most players realise that they are playing for a leisure experience and not expecting to be paid.<sup>7</sup>
48. While many New Zealanders who gamble do so without experiencing harm, a significant minority will cause harm through their gambling to themselves and/or harm others. Harm may include damage to relationships, emotional and psychological distress (including stress and anxiety), disruptions to work or study, loss of income, the financial cost of gambling, and fraud and related crimes. It can also impact negatively on the gambler's family, whānau and community. Gambling may also contribute to child neglect and family violence.<sup>4</sup>
49. The most harmful form of gambling in New Zealand is non-casino gaming machines (NCGMs) at pubs/clubs. At risk and problem gamblers accounted for over half of the total estimated electronic gaming machine expenditure in 2015.<sup>4</sup>
50. From the 2020 Health and Lifestyle Survey (HLS) two clear themes were established. Māori were 3.13 times more likely to be moderate-risk or problem gamblers than non-Māori and non-pacific peoples. Approximately 3.7% of the Māori adult population were moderate-risk problem gamblers, and 5.7% were low-risk gamblers.
51. Pacific people were 2.56 times more likely to be moderate-risk gamblers than non-Māori and non-pacific peoples. An estimated 3.0% of pacific people were moderate-risk gamblers and 4.4% were low-risk gamblers.<sup>8</sup>
52. After adjusting for deprivation level, the 2020 HLS found Māori were over 3.39 times more likely to report either gambling-related arguments or money problems related to gambling compared with non-Māori and non-Pacific peoples.
53. Harmful gambling typically presents with other health issues such as higher levels of smoking, hazardous alcohol consumption and other drug use, as well as higher levels of depression and poorer self-rated health.<sup>6</sup>
54. In New Zealand, we know that harmful gambling behaviour is strongly correlated with family, whānau or partner violence, with half of problem gamblers reporting having experienced family or whānau violence.<sup>9</sup>

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<sup>5</sup> Ministry of Health. 2022. *Strategy to Prevent and Minimise Gambling Harm 2022/23 to 2024/25*. Wellington: Ministry of Health

<sup>6</sup> Te Hiringa Hauora and Kupe. 2020. Health and Lifestyles Survey Gambling Harm. URL: <https://kupe.hpa.org.nz/#!/gambling/gambling-harm>.

<sup>7</sup> Parke, J. (2015). Gambling, leisure and pleasure: Exploring psychological need satisfaction in gambling. Presentation at the KPMG eGaming summit. [https://assets.kpmg/content/dam/kpmg/pdf/2016/07/im\\_esummit-report-2015.pdf](https://assets.kpmg/content/dam/kpmg/pdf/2016/07/im_esummit-report-2015.pdf)

<sup>8</sup> Same as 4

55. Research suggests that when it comes to preventing and minimising gambling harm, the location of gaming machines is more important than the number of gaming machines operating.<sup>10</sup>
56. While the national rate of venues and gaming machines is declining gambling harm still poses a significant risk to the community.

### Objectives of the Gambling Venue 2023 Policy

57. Key objectives as stated in the new draft policy are:
- To minimise harm to the community caused by gambling.
  - To manage gambling in the district; by controlling the location of venues and number of gaming machines permitted to operate.
  - Facilitate community involvement in decisions about gambling.
  - Recover costs where appropriate.

### Class 4 Gaming and TAB venues in Marlborough

58. There are currently 12 venues and 165 gaming machines in operation. There are no standalone TAB venues.

Figure 5: Class 4 Venues currently operating in Marlborough.

Venue Name	Address	Gaming Machine Count	Maximum Gaming Machines
Biddy Kate's	2 Market Street, Blenheim	18	18
Grove Tavern	77 Grove Road, Blenheim	18	18
Waterfront Bar & Grill	7 Grove Road, Blenheim	18	18
DA's Barn Restaurant & Bar	48 High Street, Picton	9	9
Fairweathers Bar & Restaurant	36 Scott Street, Blenheim	9	9
Havelock Hotel	54 Main Road, Havelock	9	9
Mikeys Texas Tea Bar & Grill	12-18 High Street, Picton	18	18
Pelorus Tavern	Main Road, Canvastown	3	3
Springlands Tavern	16 Boyce Street, Blenheim	18	18
Redwood Tavern	70 Cleghorn Street, Blenheim	18	18

<sup>9</sup> Auckland University of Technology. 2017. Problem Gambling and Family Violence in Help-seeking Populations: Co-occurrence, impact and coping. Wellington: Ministry of Health.

<sup>10</sup> Brief Literature Review to Summarise the Social Impacts of Gaming Machines and TAB Gambling in Auckland, Gambling & Addictions Research Centre, AUT University, 2012.

Venue Name	Address	Gaming Machine Count	Maximum Gaming Machines
The Crow Tavern	15/17 Nelson Square, Picton	9	10
Woodbourne Tavern	High Street, Renwick	18	18
Total Gaming machines		165	166

### Proposed changes to the current Class 4 Gambling Venues and Racing Board Venues Policy

59. The existing policy has a cap on the number of gaming machines at 240 which is greater than the demand. Since the implementation of the previous policy operating numbers have been lower than the cap and are currently significantly lower than the cap (165).
60. It is proposed to adopt a sinking lid policy for class 4 gaming venues to ensure the numbers of venues and gaming machines are managed effectively to represent current numbers.
61. A sinking lid policy means that once a class 4 gambling venue closes, the council will not issue any other society a licence to replace that venue.
62. Currently 33 out of 62 councils have adopted a sinking-lid policy.
63. It is also recommended that the total number of gaming machines allowed in a club merger is reduced from 30 to 18 machines.
64. With the new Racing Industry Act 2020 the TAB Venue Policy will be updated to reflect the new legislation and separate Class 4 Venues from TAB venues.
65. There are no proposed changes to fees.

**Figure 6: Summary of Current and Proposed Changes**

	Current Policy	Proposed Policy
Maximum numbers Gaming Machines	240	Sinking lid (current machines at time policy is accepted)
Number of Class 4 Venues	No limit	Sinking lid (current number of venues from when policy is accepted)
Number of TAB Venues	No Limit	No Limit
Merger (numbers of machines)	Sum of the two clubs when merge or 30 machines, whichever is the lesser	Sum of the two clubs when merge or 18 machines, whichever is the lesser
Relocation	Allow relocation	Allow relocation

66. Refer to appendix 4 for a comparison of policies to other Districts.

## *Reasons for proposed changes*

67. The policy determines whether Class 4 and standalone TAB venues can be established in the district and, if so, where they can be located. Through these controls, the policy aims to minimise harm to the community caused by this type of gambling while allowing for it as a provision for funding given out to the community from proceeds.
68. Class 4 gambling is defined as gambling that involves a gaming machine (also known as pokies) and legislated under the Gambling Act 2003. The machines are run by societies or clubs and a proportion of the net proceeds are required to be distributed to the community, or to a club's approved purposes.
69. TAB venues are legislated for under the Racing Industry Act 2020. Council only has jurisdiction over numbers and locations of standalone TAB venues, not TAB outlets or agencies.
70. In reviewing the policy, a territorial authority may have regard to the social impact of gambling within the territorial authority district (positive and negative impacts).
71. In determining its policy on whether class 4 venues and standalone TAB venues may be established in the territorial authority district, where any venue may be located, and any restrictions on the maximum number of gaming machines that may be operated at venues, the territorial authority may have regard to any relevant matters, including;
  - characteristics of the district and parts of the district
  - location of kindergartens, early childhood centres, schools, places of worship, and other community facilities.
  - the number of gaming machines that should be permitted to operate at any venue or class of venue.
  - the cumulative effects of additional opportunities for gambling in the district.
  - how close any venue should be permitted to be to any other venue.
  - what the primary activity at the venue should be.
  - a relocation policy.

It may consider other matters that are relevant.

72. Council may prescribe fees with a sole purpose of the charge to recover reasonable costs incurred by the local authority in respect of the activity to which the charge relates.

## **Option A (Recommended Option)**

### **Class 4 Gaming Venues**

- Adopt a sinking lid approach for the number of class 4 venues and gaming machines. Therefore, Council will not grant consent for:
  - The establishment of any additional Class 4 venues or additional gaming machines, including Class 4 machines in TAB venues under this policy.

*Example: If a class 4 venue closes, the Council will not issue any other society a licence to replace that venue. Or that once the number of machines licenced to operate in a community decreases, Council will not issue any other society a licence to replace those machines.*

- Club Mergers
  - Permitted number of machines when clubs merge is the sum of machines previously operated by each club, or 18 machines whichever is the less.

*Example: two clubs with 9 machines each are currently allowed 18 machines at a new combined club.*

- Relocation
  - Allow relocation as per the current policy, but only allow relocation to a deprivation level the same or lower.

*Example: If a venue had earthquake damage to the building it would be able to relocate to a new venue if the deprivation level was the same or lower.*

#### **TAB Venues**

- Allow the establishment of TAB venues if it meets the application requirements.

*Example: If a new TAB standalone venue wanted to open in the District, Council would allow application for consent.*

### **Option Two**

#### **Class 4 Gaming Venues**

- Cap the total number of gaming machine numbers to current machines in use in the district currently.
  - Cap the number of gaming machines to 165.

*Example: Council set a number of gaming machines to be 165, no further gaming machines will be issued unless other machines are surrendered. The total number of gaming machines in the district would not exceed 165. However, if numbers dropped a new venue could be established and have no more than 9 machines if the cap allows.*

- Club Mergers
  - Permitted number of machines when clubs merge is the sum of machines previously operated by each club, or 18 machines whichever is the less.

*Example: two clubs with 9 machines each are currently allowed 18 machines at a new combined club.*

- Relocation
  - Allow relocation as per the current policy, but only allow relocation to a deprivation level the same or lower.

*Example: If a venue had earthquake damage to the building it would be able to relocate to a new venue if the deprivation level was the same.*

#### **TAB Venues**

- Allow the establishment of TAB venues if it meets the application requirements.

*Example: If a new TAB standalone venue wanted to open in the District, Council would allow application for consent.*

### **Option Three – Status Quo**

Retain the existing Class 4 Policy but amend wording to allow for the new Racing Industry Act 2020.

*Example: the current policy position remains in place until it is reviewed in 2026*

## Benefits and Disadvantages

	Benefits	Disadvantages
<p><b>Option One: Sinking lid</b></p>	<p>The Gambling Act 2003 was introduced to limit the number of pokies in non-casino establishments.</p> <p>Pokies are still the most harmful form of gambling in NZ.</p> <p>Sinking lid policies are designed to control the growth of gambling. They work by gradually reducing the number of machines by prohibiting the transfer of gambling licences.</p> <p>By adopting a sinking lid policy it shows strong alignment with the Gambling Act.</p> <p>Sinking lids can be effective in reducing gambling expenditure i.e. player losses over time.</p> <p>Reduces the potential for harmful gambling by reducing the opportunities to gamble, while still enabling existing gambling venues to continue to operate.</p> <p>Reduced likelihood that gambling and associated harms could become a significant problem in our district.</p>	<p>May discourage new hospitality businesses if they need gaming machines to be financially viable. However, under section 67(1)(k) Gambling Act 2003 it states that a class 4 venue cannot have gambling as its primary activity.</p> <p>Class 4 venues that are taverns must hold an appropriate licence for the sale and supply of alcohol. District Licensing Committees have at times refused the renewal of alcohol licences where the main activity of the premises has been found to be gambling. Similarly, the Gambling Commission has upheld a number of decisions not to renew Class 4 venue licences; a point in case is GC25/12 (Whiskey Jacks).</p> <p>Over time may reduce proceeds to the community if venues were to close.</p>
<p><b>Option Two: Lower cap (165)</b></p>	<p>Reduces the opportunities to gamble and reduces gambling expenditure i.e. player losses therefore reducing the potential for harmful gambling, while still enabling existing gambling venues to continue to operate.</p> <p>Does not allow any more machines above the current allowed number or any more venues to operate currently.</p>	<p>May reduce the return to the community.</p> <p>May discourage new hospitality businesses if they need gaming machines to be financially viable. However same issues as above.</p>

	<b>Benefits</b>	<b>Disadvantages</b>
<b>Option Three: Cap remains at 240</b>	<p>May encourage new businesses if machines influence a business's financial viability. However as discussed above s67(1)(k) of the Gambling Act states that gambling cannot be its primary activity.</p> <p>May increase the return to the community.</p>	<p>An increase in the number of gaming machines may increase the potential for problem gambling.</p> <p>Increased likelihood that gambling and associated harms could be a significant problem in our district.</p>

### Next steps

73. The proposed timeframes are:

- Advertise the Draft Policy and Statement of Proposal (Date TBC) if proposal is ratified at full Council on 18 May 2023
- Submission period date TBC
- Hold a community meeting (date TBC) during submission period.
- Hearing to be held as soon as possible after submission period.
- Sub-committee to deliberate and make recommendation (date TBC).
- Council to finalise Gambling Venue Policy 2023 (date TBC).
- Formally adopt the new policy in accordance with our governance requirements and Local Government Act. And send a copy of the Policy to DIA (date TBC).

### Presentation

A presentation will be given by Georgia Murrin (30 minutes).

### Attachments

<b>Attachment 1</b> – Draft Gaming Policy Review .....	page [49]
<b>Attachment 2</b> – Draft Statement of Proposal .....	page [53]
<b>Attachment 3</b> – Gambling Trends in Marlborough (DIA 2022 Data) .....	page [63]
<b>Attachment 4</b> – Comparison of other Districts Policies.....	page [64]

Author	Georgia Murrin, Environmental Health Officer
Authoriser	Karen Winter, Team Leader Environmental Health

<b>Summary of decision-making considerations</b>			
<b>Fit with purpose of local government</b>			
The proposal enables Council to meet its statutory responsibilities in the review and relevant considerations of Council Gambling Policy.			
<b>Fit with Council policies and strategies</b>			
	<i>Contributes</i>	<i>Detracts</i>	<i>Not applicable</i>
LTP / Annual Plan	<input type="checkbox"/>	<input type="checkbox"/>	<b>X</b>
Financial Strategy	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>
Infrastructure Strategy	<input type="checkbox"/>	<input type="checkbox"/>	<b>X</b>
Social well-being	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>
Economic development	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>
Environment & RMA Plans	<input type="checkbox"/>	<input type="checkbox"/>	<b>X</b>
Arts & Culture	<input type="checkbox"/>	<input type="checkbox"/>	<b>X</b>
3 Waters	<input type="checkbox"/>	<input type="checkbox"/>	<b>X</b>
Land transport	<input type="checkbox"/>	<input type="checkbox"/>	<b>X</b>
Parks and reserves	<input type="checkbox"/>	<input type="checkbox"/>	<b>X</b>
This proposal contributes to the social well-being and economic development, gambling has a potential for social harm, while provided community funding and economic development.			
<b>Nature of the decision to be made</b>			
Special Consultative Procedures will be followed as required by the Act.			
<b>Financial considerations</b>			
The project has been budgeted for in the Environmental Health 2023 budgets.			
<b>Significance</b>			
Special Consultative Procedures will be followed as required by the Act.			
<b>Engagement</b>			
Special Consultative Procedures will be followed as required by the Act.			
<b>Risks: Legal / Health &amp; Safety etc</b>			
There are no known significant risks or legal implications provided process under the Act are followed.			
<b>Climate Change Implications</b>			
There are no known climate change implications to this decision.			



## **Gambling Venue Policy 2023**

(under the Gambling Act 2003 & the Racing Industry Act 2020)

### **1. INTRODUCTION**

- 1.1 This policy has been prepared in accordance with Section 101 of the Gambling Act 2003 and Section 96 of the Racing Industry Act 2020.
- 1.2 Both Acts require Territorial Authorities to have a policy that guides if, where and how many Class 4 (pokies) and TAB venues may be established in the district.
- 1.3 Both Acts require that these policies are reviewed every three years.
- 1.4 Marlborough District Council has had a single combined policy for Gambling Venues (Class 4 and TAB venues) since the legislation was introduced in 2003.
- 1.5 The operation of Class 4 gaming machines must not be the primary activity on any Class 4 venue.

### **2. OBJECTIVES OF THE POLICY**

- 2.1 To minimise harm to the community caused by gambling.
- 2.2 To manage gambling in the district; by controlling the location of venues and number of gaming machines permitted to operate.
- 2.3 Facilitate community involvement in decisions about gambling.
- 2.4 Recover costs where appropriate.

### **3. ESTABLISHMENT OF TAB VENUES**

- 3.1 TAB venues are defined in the Racing Industry Act 2020 as those premises that are owned or leased by the TAB NZ and where the main business carried out at the premises is providing racing betting, sports betting, or other racing or sports betting services.
- 3.2 Council will allow new gambling venues associated with standalone TAB venues under this Policy.
  - 3.2.1 TAB outlets may be established within any zone where commercial activities are permitted subject to:
    - a) Meeting application and fee requirements;
    - b) The venue having a 'host responsibility' and gambling harm minimisation policy and staff training programme, approved by the Ministry of Health;
    - c) When assessing an application to establish a TAB outlet, consideration must be given to the following;
      - i. The venue not being primarily associated with family or children's activities;
      - ii. The closeness of the venue to any residential zone;

- iii. The closeness of the venue to any educational facilities, spiritual facilities, recreational facilities, cultural facilities, and other educational or religious establishments.
- iv. The concentration of gambling venues.

*Note: For the purposes of clarity TAB NZ requires the consent of the Council if it proposes to establish a TAB venue. For the avoidance of doubt, this policy only applies to applications for the establishment of standalone TAB venues. This policy does not cover the installation of TAB terminals in premises not owned or leased by the Board (for example hotels, bars and clubs).*

*TAB venues may be established in within the Marlborough District, subject to the provisions of the Marlborough Environment Plan and meeting application and fee requirements.*

#### **4. ESTABLISHMENT OF CLASS 4 VENUES & MACHINES**

- 4.1 Class 4 gambling is the term used in the Gambling Act 2003 to describe non-casino gaming machines (pokies) and the premises that are used to operate those machines.
- 4.2 Council uses a 'sinking lid' approach to Class 4 venues or additional gaming machines. Therefore, Council will not grant consent for:
  - a) The establishment of any additional Class 4 venues or additional gaming machines.
  - b) The re-establishment of a Class 4 venue with gaming machines once a licence is no longer held for that venue and territorial authority consent is required.

*Note: situation 4.2(b) usually applies when no licence has been held by any society for a particular Class 4 venue within the previous six months.*

*To make it clear, no new Class 4 venues or gaming machines will be allowed under the Councils sinking lid Policy. This means when an existing venue closes, the Council will not give consent for another to be established.*

#### **5. EXCEPTIONS FROM MEETING PARTS OF THIS POLICY (MERGERS)**

- 5.1 In the case of clubs only, when two or more clubs merge legally and physically in terms of section 95 of the Gambling Act 2003, they may apply to have the lesser of:
  - a) The sum of the number of gaming machines specified in all of the clubs Class 4 venue licences at the time of application; or
  - b) 18 gaming machines.

#### **6. RELOCATION OF EXISTING CLASS 4 VENUE**

- 6.1 On application Council may permit existing Class 4 venues to re-establish at a new site where due to circumstances beyond the control of the owner or lessee of the premises in which the machines are located, the premises cannot continue to operate at the existing site.
- 6.2 Any application to relocate a current venue will be considered on a case-by-case basis and approval will be at the discretion of the Council.
- 6.3 An application, and the proposed venue, must comply with all other conditions and provisions set out in this Policy and subject to the following conditions:

- a) The venue operator of the new location will be the same as the former location.
- b) The venue not being primarily associated with family or children's activities.
- c) The closeness of the venue to any residential zone.
- d) The closeness of the venue to any educational facilities, spiritual facilities, recreational facilities, cultural facilities, and other educational or religious establishments.
- e) The deprivation level is the same or lower.
- f) The maximum number of gaming machines permitted to operate at the new venue is the same as the maximum number of gaming machines permitted to operate at the old venue immediately before the licence relating to the old venue is cancelled.
- g) Meeting the application fee requirements.

*Note: Where a venue relocates, the Class 4 licence for the old venue will be cancelled and the old venue will be treated as if no Class 4 venue licence had ever been held for that venue.*

## **7. APPLICATIONS**

7.1 All applications must be made on the approved form and must provide the following:

- a) Name and contact details of applicant.
- b) Evidence of police clearance for owners and managers of the venue.
- c) A 12-month business plan or budget for the establishment, covering both gambling and other activities proposed for the venue.
- d) A site plan covering both gambling and other activities proposed for the venue, including details of each floor of the venue.
- e) Evidence of the distance to the nearest residential zone, other Class 4 gambling venues, as well as distance to any educational, recreational, cultural, and religious facilities and establishments.
- f) Street address of premises proposed for the venue.
- g) Details of any alcohol licence(s) applying to the premises.
- h) A copy of the proposed Gambling Harm Minimisation Policy, including the staff training programme and details of how underage access will be controlled effectively.
- i) Signed written approval from the verified property owner.
- j) Any other relevant information requested by the territorial authority, or that the applicant wishes to provide.

## **8. APPLICATION FEE**

- 8.1 The fee for making an application for a venue or relocation licence is \$290.00 per application based on a maximum processing time of two hours. Further time taken to process an application will be charged at \$145.00 per hour.
  
- 8.2 The fee is set by Council in accordance with Section 150 of the Local Government Act 2002 and includes consideration of the cost of processing the application.

Date for next review is July 2026

# Statement of Proposal



**MARLBOROUGH  
DISTRICT COUNCIL**

for Class 4 Gaming Venues and Racing Board Venues Policy Review

**Marlborough District Council is seeking feedback on the proposed  
Gambling Venue Policy**

This document is divided into five parts -

**Part 1: Introduction**

**Part 2: Reason for Proposed Change**

**Part 3: Proposed Changes**

**Part 4: Options**

**Part 5: Have your say**



## **Executive Summary**

The Marlborough District Council (Council) want to hear your thoughts on its proposed Gambling Venue and TAB venue policies. This statement of proposal has been prepared as part of consultation with those with an interest in the proposed Gambling Venue Policy Review. Under the relevant legislation (Gambling Act 2003 and Racing Industry Act 2020) Council are required to review both Policies every three years.

Under the Gambling Act 2003 and the Racing Industry Act 2020, Territorial Authorities can approve consents for Class 4 (pokie machines) gambling venues and standalone racing (TAB) venues. Both Acts require Territorial Authorities to have a policy that guides if, where and how many Class 4 and TAB venues and machines may be established in the district.

When reviewing these Policies, we must consider the social impacts of gambling in our community. That is why your feedback is needed – it is crucial that our community have input to let us know what you think, and if we are on the right track.

In summary, the number of Class 4 gaming venues in the District has decreased since 2016 from 20 venues to 12, with the number of gaming machines also decreasing from 249 to 165 as of January 2023. There are no standalone TAB venues in the District.

Recent Gaming Machine Statistics released by the Department of Internal Affairs shows that while a 40% decrease in venues and 33.7% decrease in gaming machines in the District from March 2015 to December 2022, the quarterly gaming machine profits have increased by 33% in the same period.

The level of reported harm (problem gambling referrals) remains low, however anecdotal evidence received from the community indicates that there may be harm occurring as a result of Class 4 gambling in the community.

Council has considered the proposed changes along with other options and resolved to support the proposed changes highlighted in option one, subject to a special consultative procedure.

The special consultative procedure gives the public an opportunity to make submissions and provide feedback on the proposed fees. Once the submission period closes, hearings will be conducted if people indicate they want to speak in support of their submissions.

This statement of proposal has been prepared in accordance with the requirements of section 83 of the Local Government Act 2002.

## Part 1: Introduction

The Gambling Act 2003 came into effect on 18 September 2003 and requires Territorial Authorities to adopt a policy that must have regard to the social impact of gambling within the Territorial Authority district.

The policy **must** specify whether or not class 4 venues may be established and if so, where they may be located.

It **may** specify any restrictions on the maximum number of gaming machines that may be operated at a Class 4 venue.

It **may** include **a relocation policy**

The purpose of the Gambling Act 2003 is to:

- **control** the **growth** of gambling; and
- **prevent** and **minimise** the **harm** caused by gambling, including problem gambling; and
- **authorise** some gambling and **prohibit** the rest, and
- **facilitate** responsible gambling; and
- ensure the **integrity** and **fairness** of games; and
- **limit opportunities** for **crime** or **dishonesty** associated with gambling; and
- ensure that money from gambling **benefits the community**; and
- facilitate **community involvement** in **decisions** about the provisions of gambling.

The Racing Industry Act 2020 came into effect on 1 August 2020 and requires Territorial Authorities to adopt a TAB venue policy and have regard to the social impact of gambling within the Territorial Authority district.

The policy **must** specify whether or not new TAB venues may be established and if so, where they may be located.

In determining its policy on whether TAB venues may be established in the Territorial Authority district and where any TAB venues may be located, the Territorial Authority **may** have regard to any relevant matters, including –

- a) the characteristics of the district and parts of the district.
- b) the location of kindergartens, early childhood centres, schools, places of worship, and other community facilities.
- c) the cumulative effects of additional opportunities for gambling in the district

The purpose of the Racing Industry Act 2020 are to: Reform the law relating to New Zealand racing in order to:

- provide **effective governance** arrangements for the racing industry; and
- **promote** the long-term viability of New Zealand racing; and
- **facilitate** betting on galloping, harness, and greyhound races, and other sporting events; and
- ensure that the **value** of racing property is **retained** in the industry and is used for maximum industry benefit; and
- **prevent** and **minimise harm** from gambling conducted under this Act, including harm **associated with problem gambling**.

## Part 2: Reason for Proposed Changes

The policy determines whether Class 4 and standalone TAB venues can be established in the district and, if so, where they can be located. Through these controls, the policy aims to minimise harm to the community caused by this type of gambling while allowing for it as a provision for funding given out to the community from proceeds.

Class 4 gambling is defined as gambling that involves a gaming machine (also known as pokies) and legislated under the Gambling Act 2003. The machines are run by societies or clubs and a proportion of the net proceeds are required to be distributed to the community, or to a club's approved purposes.

TAB venues are legislated for under the Racing Industry Act 2020. Council only has jurisdiction over numbers and locations of standalone TAB venues, not TAB outlets or agencies.

In reviewing the policy, a territorial authority may have regard to the social impact of gambling within the territorial authority district (positive and negative impacts).

In determining its policy on whether class 4 venues and standalone TAB venues may be established in the territorial authority district, where any venue may be located, and any restrictions on the maximum number of gaming machines that may be operated at venues, the territorial authority may have regard to any relevant matters, including;

- characteristics of the district and parts of the district.
- location of kindergartens, early childhood centres, schools, places of worship, and other community facilities.
- the number of gaming machines that should be permitted to operate at any venue or class of venue.
- the cumulative effects of additional opportunities for gambling in the district.
- how close any venue should be permitted to be to any other venue.
- what the primary activity at the venue should be.
- a relocation policy.

It may consider other matters that are relevant.

Council may prescribe fees with a sole purpose of the charge to recover reasonable costs incurred by the local authority in respect of the activity to which the charge relates.



## Part 3: Proposed Change

Council considers that the current policy requires changes; its existing policy has a cap on the number of gaming machines at 240 which is greater than the demand. Since the implementation of the previous policy operating numbers have been lower than the cap and are currently significantly lower than the cap. Council are looking to adopt a sinking lid policy for class 4 gaming venues to ensure the numbers of venues and gaming machines are managed effectively to represent the current numbers. While Council proposes to adopt a sinking lid policy, it also recommends that the total number of gaming machines allowed in a club merger is reduced from 30 to 18 machines. With the new Racing Industry Act the TAB Venue Policy will be updated to reflect the new legislation, and to align with the new format of the Gambling venue Policy.

Council is proposing the following amendments to the policy:

1. Adopt a sinking lid policy for Class 4 Gaming Venues.
2. Where two or more clubs merge legally and physically and combine their premises, they may apply to have up to the lesser of:
  - the sum of the number of gaming machines specified in all of the class 4 venues licences at the time of the application.
  - or 18 machines (change from 30 to 18 machines).
3. Separate out class 4 venues and standalone TAB venues within the policy.
4. Amendments to the wording and layout of the policy to update changes in legislation and improve its readability.

A copy of the proposed Gambling Policy is available on Councils Website at [www.marlborough.govt.nz](http://www.marlborough.govt.nz) or at Council offices.

## Part 4: Options

The Council, in consultation with the community, have the opportunity to influence gambling through restrictions on the number and locations of TAB venues. The Council considered the following options in relation to numbers of machines and venues and have established the three options below.

### Option One – Preferred Option

#### Class 4 Gaming Venues

- Adopt a sinking lid approach for the number of class 4 venues and gaming machines. Therefore, Council will not grant consent for:
  - The establishment of any additional Class 4 venues or additional gaming machines, including Class 4 machines in TAB venues under this policy.

*Example: If a class 4 venue closes, the Council will not issue any other society a licence to replace that venue. Or that once the number of machines licenced to operate in a community decreases, Councils will not issue any other society a licence to replace those machines.*

- Club Mergers
  - Permitted number of machines when clubs merge is the sum of machines previously operated by each club, or 18 machines whichever is the less.

*Example: two clubs with 9 machines each are currently allowed 18 machines at a new combined club.*

- Relocation
  - Allow relocation as per the current policy, but only allow relocation to a deprivation level the same or lower.

*Example: If a venue had earthquake damage to the building it would be able to relocate to a new venue if the deprivation level was the same or lower.*

#### TAB Venues

- Allow the establishment of TAB venues if it meets the application requirements.

*Example: If a new TAB standalone venue wanted to open in the District, Council would allow application for consent.*

## Option Two

### Class 4 Gaming Venues

- Cap the total number of gaming machine numbers to current machines in use in the District currently.
  - Cap the number of gaming machines to 165

*Example: Council set a number of gaming machines to be 165, no further gaming machines will be issued unless other machines are surrendered. The total number of gaming machines in the district would not exceed 165. However, if numbers dropped a new venue could be established and have no more than 9 machines if the cap allows.*

- Club Mergers
  - Permitted number of machines when clubs merge is the sum of machines previously operated by each club, or 18 machines whichever is the less.

*Example: two clubs with 9 machines each are currently allowed 18 machines at a new combined club.*

- Relocation
  - Allow relocation as per the current policy, but only allow relocation to a deprivation level the same or lower.

*Example: If a venue had earthquake damage to the building it would be able to relocate to a new venue if the deprivation level was the same.*

### TAB Venues

- Allow the establishment of TAB venues if it meets the application requirements.

*Example: If a new TAB standalone venue wanted to open in the District, Council would allow application for consent.*

## Option Three

Retain the existing Class 4 Policy but amend wording to allow for the new Racing Industry Act 2020.

*Example: the current policy position remains in place until it is reviewed in 2026*

## Benefits and Disadvantages

	Benefits	Disadvantages
<b>Sinking lid</b>	<p>The Gambling Act 2003 was introduced to limit the number of pokies in non-casino establishments.</p> <p>Pokies are still the most harmful form of gambling in NZ.</p> <p>Sinking lid policies are designed to control the growth of gambling. They work by gradually reducing the number of machines by prohibiting the transfer of gambling licences.</p> <p>By adopting a sinking lid policy it shows strong alignment with the Gambling Act.</p> <p>Effective in reducing gambling expenditure i.e. player losses over time.</p> <p>Reduces the potential for harmful gambling by reducing the opportunities to gamble, while still enabling existing gambling venues to continue to operate.</p> <p>Reduced likelihood that gambling and associated harms could become a significant problem in our district.</p>	<p>May discourage new hospitality businesses if they need gaming machines to be financially viable. However, under section 67(1)(k) Gambling Act 2003 it states that a class 4 venue cannot have gambling as its primary activity.</p> <p>Class 4 venues that are taverns must hold an appropriate licence for the sale and supply of alcohol. District Licensing Committees have at times refused the renewal of alcohol licences where the main activity of the premises has been found to be gambling. Similarly, the Gambling Commission has upheld a number of decisions not to renew Class 4 venue licences; a point in case is GC25/12 (Whiskey Jacks).</p> <p>Over time may reduce proceeds to the community if venues were to close.</p>

<p><b>Lower cap (165)</b></p>	<p>Reduces the opportunities to gamble and reduces gambling expenditure i.e. player losses therefore reducing the potential for harmful gambling, while still enabling existing gambling venues to continue to operate.</p> <p>Does not allow any more machines above the current allowed number or any more venues to operate currently.</p>	<p>May reduce the return to the community.</p> <p>May discourage new hospitality businesses if they need gaming machines to be financially viable. However same issues as above.</p>
<p><b>Cap remains at 240</b></p>	<p>May encourage new businesses if machines influence a business's financial viability. However as discussed above s67(1)(k) of the Gambling Act states that gambling cannot be its primary activity.</p> <p>May increase the return to the community.</p>	<p>An increase in the number of gaming machines may increase the potential for problem gambling.</p> <p>Increased likelihood that gambling and associated harms could be a significant problem in our district.</p>

## Part 5: Have your say

### Make a submission on our proposed Gaming Venue Policy

You can make a submission by filling in a submission form and returning it -

**Post to:**

Gaming Policy Consultation  
Marlborough District Council  
PO Box 443  
Blenheim 7240

**Deliver to:**

Marlborough District Council  
15 Seymour Street  
Blenheim

Marlborough District Council  
67 High Street  
Picton

**Email to:** [georgia.murrin@marlborough.govt.nz](mailto:georgia.murrin@marlborough.govt.nz)

Any questions, call Council's Environmental Health Team on 03 520 7400.

**Submissions close at 5.00pm Monday, 19 June 2023.**

### Timeline for considering the proposed fees

Date TBC 6:00pm DATE TBC	Consultation period Community Group Meeting
<b>Date TBC</b>	<b>Submissions close</b>
As soon as possible after submissions close	Hearing of submissions to proposal
Date TBC	Sub-committee to deliberate and make recommendation
Date TBC	Full Council to ratify hearing panel's recommendation
Date TBC	The Council decides whether to adopt the proposed policy at Environment and Planning Committee
Date TBC	Formally adopt the new policy in accordance with our governance requirements and Local Government Act. And send a copy of the Policy to DIA



Mar-2015 to Dec-2022

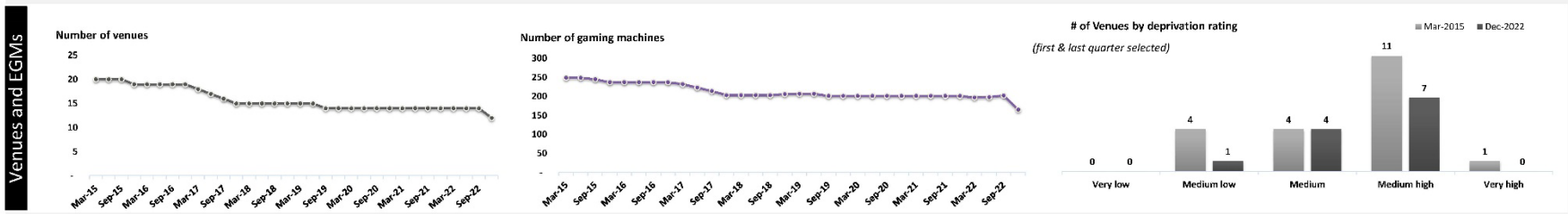
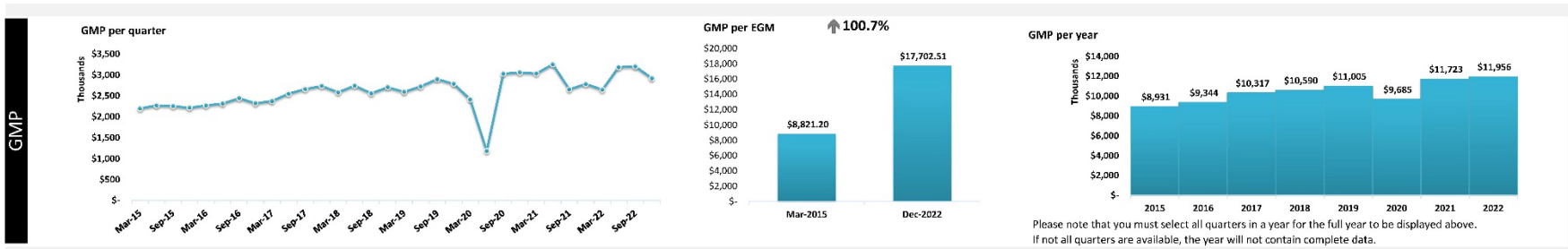
# Gaming Machines Statistics Dashboard

Region **Marlborough**

TA **(All)**

Class 4 Gaming Machine Profits (GMP) is expenditure or player loss on Electronic Gaming Machines (EGMs) in the Class 4 Sector. Each year roughly 40% of GMP is returned to the New Zealand community.

	Yearly GMP (Dec-2022)	Quarterly GMP	# venues	# EGMs
National	<b>\$1,014,581,834.13</b>	<b>\$272,594,915.21</b>	<b>1,028</b>	<b>14,503</b>
	Yearly GMP (year ending)	Quarterly GMP	Venues	EGMS
Dec-2021	\$11,723,273.51	Mar-15 \$2,196,479.07	20	249
Dec-2022	\$11,955,524.85	Dec-22 \$2,920,914.27	12	165
Difference	\$232,251.34 <span style="color: green;">↑</span> 2.0%	Difference \$724,435.20 <span style="color: green;">↑</span> 33.0%	-8 <span style="color: red;">↓</span> -40.0%	-84 <span style="color: red;">↓</span> -33.7%



**Overall**

- According to the Household Economic Survey (2016) from Stats NZ, New Zealanders spend roughly 11 billion dollars a year on all forms of entertainment, which includes games of chance.\*
- From Mar-2015 to Dec-2022 quarters, GMP for Marlborough increased by \$724,435 or by 33.0%. Trends for the Mar-2023 quarter indicates no change by \$0.
- From year end Dec-21 to year end Dec-22, GMP increased by \$232,251 or by 2.0%.
- From Mar-2015 to Dec-2022 quarters, venues decreased by 8 or by -40.0%. Gaming machine numbers decreased by 84 or -33.7%.
- A way to compare year on year expenditure equally is to remove orders of magnitude by taking GMP as a proportion of EGMs which has increased by 100.7% or \$8,881.31. This means players are spending longer hours playing gaming machines, betting more per game or more players are playing pokie machines.

**Comparison**

- From Mar-2015 to Dec-2022 quarters GMP for Marlborough increased by 33.0% compared to West Coast which increased by 21.1%. Both Marlborough and West Coast show similar downward trends for EGMs and venues.
- In order to compare GMP expenditure in different areas, we show GMP as a proportion of the number of gaming machines. That way, when comparing areas, any difference in size is removed which allows you to compare GMP equally.
- GMP per gaming machine in Marlborough increased by \$8,881 since Mar-2015, which translates to \$17,703 in Dec-2022 or a 100.7% change.
- As a comparison, West Coast increased by \$3,444, which translates to \$10,749 in Dec-2022 or a 47.1% change.

**Disclaimers**

The data is provided for all venues and gaming machines licensed as at the last day of each quarter. Note data for venues without an active licence at this date are excluded. Please see the Notes tab for more details.

\* (Stats NZ)

## Comparison of Policies

Council	Sinking Lid/ Cap	Relocation	Allow new applications	Merger	Other notes
<b>Marlborough District Council 2017</b>	Cap 240	Allow relocation	Accept new application given it is under the cap	Lesser of the sum of the two clubs merge or 30 gaming machines	Fee: \$290 and \$145 per hr for further time to process application
<b>Tasman District Council 2019</b>	Sinking lid	Not grant consent for relocation	Refuse to grant new or additional Class 4 gaming machines	No mergers allowed	Allow new gaming venues associated with NZ racing Board (TAB) application fee \$500 then further costs if required
<b>Nelson City Council 2018</b>	Cap 162	No relocation policy	Accept new application given it is under the cap. Very site restrictive	No more than 30 machines, will be assessed case by case	Very site specific. New venues only allowed 5 machines total. Before 17 Oct 2001 (18 machines) - at or after 17 Oct 2001 (9 Machines)
<b>Gisborne District Council 2022</b>	Sinking Lid	Allow relocation only if earthquake strengthening is required	No additional or new gaming machines/venues including machines in TAB venues	Maximum 10 Machines	Separate out TAB venues and Class 4
<b>Wellington City Council 2021</b>	Sinking lid	Doesn't mention	No new class 4 venues – however allows new TAB venues	Doesn't mention	Fee: \$90 per hour
<b>Waitaki District Council 2022</b>	Sinking Lid	Allow relocation under exceptional circumstances (i.e. natural disaster)	No new applications granted	Non-commercial club mergers allowed, but not more than 30 machines or the sum of the two combined. (the lesser of the two options)	Separate policy for TAB venues and Class 4 Gambling Venues
<b>Hamilton City Council</b>	Sinking lid	Allows relocation if lease isn't renewed or building deemed unsafe	No new applications unless relocation or merger of clubs	Allows merger 24 machines or sum of two (whichever is less)	Gambling Permitted areas

*NB: I have selected these policies due to their similarity to our region and to compare them to what City Councils have adopted*



## 13. Mooring Monitoring Overview

(Clr Minehan) (Report prepared by Vanessa Hantz)

E360-006-02

### Purpose of Report

1. The purpose of this report is to provide an overview of the compliance monitoring undertaken by the Environmental Protection team of moorings in Marlborough's coastal marine area.

### Executive Summary

2. Mooring in Marlborough's coastal marine area are required to have coastal permits under the Marlborough Environment Plan.
3. Council's Environmental Protection team have an active monitoring programme for moorings within Marlborough.
4. Overdue biennial inspection is the primary cause of mooring permit non-compliance. With 490 outstanding at the time of writing of this report.
5. Approximately 92% of inspection certificate received during 2022 were compliant with the conditions of their coastal permits.
6. Biennial inspections of moorings are critical for ensuring marine safety and avoid impacts from offsite locations.

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## RECOMMENDATION

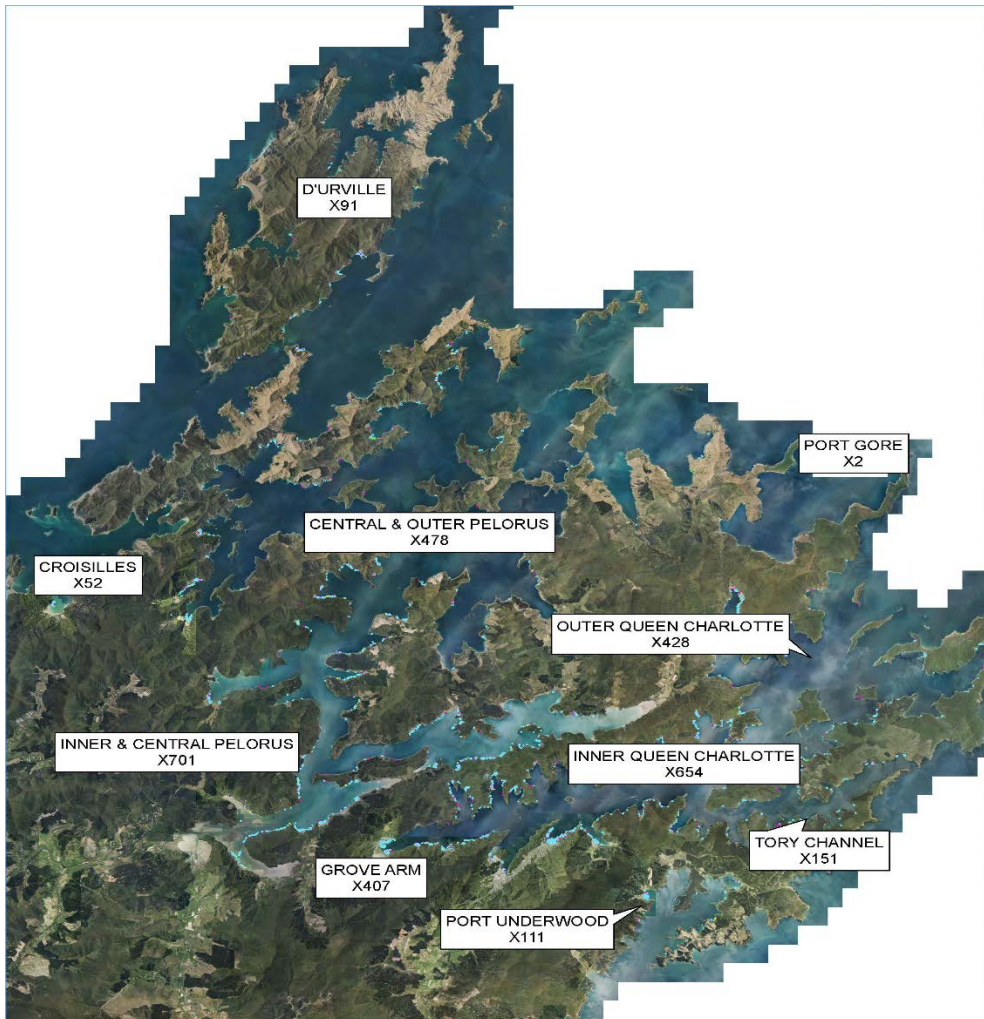
**That the information be received.**

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### Background/Context

7. The proposed Marlborough Environment Plan (PMEP) requires moorings in the coastal marine area to obtain a coastal permit, to lay a mooring in Marlborough's coastal area without a permit or in breach of a permit condition is an offence under s12 of the Resource Management Act 1991 (RMA).
8. There are 3075 moorings currently consented within the Marlborough Sounds covering, Croisilles, Port Underwood and the Pelorus and Queen Charlotte Sounds.
9. In general moorings are only granted to property owners in a bay to provide access or clubs. In some bays, especially close to nodes of settlement, issues arise surrounding competing demand for coastal space for moorings, especially swing moorings. The location of such moorings must consider navigational routes for boats, as well as sufficient separation from one another to ensure the safety of boats on other moorings.
10. How and where to provide for moorings in Marlborough's coastal environment is addressed in the policies and objectives section of the PMEP.

11. Figure 1: Map showing breakdown of locations of consented moorings within Marlborough's Coastal Environment:



## Mooring Requirements

12. Swing moorings have always conventionally consisted of a block, tackle (being chain and rope) and a surface buoy.
13. Environmental issues have led to the encouragement of mooring owners to install non-disturbance mooring systems to reduce the adverse effects to the seabed from tackle scour. Local iwi are involved in this consultation process.
14. Non-disturbance systems reduce seabed scouring by ensuring no tackle touches the seabed.
15. There are many brands of non-disturbance mooring systems. Each brand is made differently for example a Marine Flex uses a block with elasticated bands whereas the SALM (Single Anchor Leg Mooring) system uses a screw anchor rather than a block & has a submersible buoy.
16. Non-disturbance mooring systems are not suitable in all water depth and for all size vessels.
17. A 20% maximum swing circle overlap is applied when assessing locations considering regards to safety & navigation for new moorings and applications for a variation to existing mooring consents.
18. Using non-disturbance systems also have other benefits as the tackle is considerably shorter than a swing mooring which reduces the overall swing circle. This helps in crowded mooring areas.

19. Council's Harbour master inputs into mooring consent application as and when required to identify any navigation or marine safety concerns with the proposal.
20. A standard condition on the granting of a mooring permit is the requirement for biennial inspection/service of the mooring to ensure a mooring is maintained, in the correct location, swing circle, identification and permitted vessel length.
21. It is a standard requirement for mooring inspection certificates to be provided to Council confirming:
  - a) The coordinates of the mooring.
  - b) The vessel length.
  - c) Either the Mean High Water (MHW) or Mean Low Water (MLW); and
  - d) The labelling on the buoy.

### **Compliance Monitoring**

22. It is the responsibility of the resource consent holder to provide the mooring certificate to Council. However, the mooring providers have developed a good working relationship with Council Environmental Protection team and generally provide these certificates directly to Council on behalf of the consent holder.
23. Between 1 January 2022 and 31 December 2022 Council received approximately 1,300 inspection certificates.
24. Mooring certificates are reviewed and monitored against the conditions of resource consent to ensure compliance has been achieved.
25. Common conditions assessed are the coordinates, vessel length, and swing circle radius.
26. The vessel length is assessed on the maximum vessel length granted even if the applicant has a smaller vessel. This is due to other vessels being able to use the mooring up to the maximum vessel length.
27. During the 2022 year approximately 1,200 certificates were acknowledged as compliant. This being 92% compliant with their conditions.
28. The main reasons for non-compliance are:
  - a) Coordinates are incorrect, so the mooring is off-site for various reasons including incorrect placement of the mooring, or the mooring block being moved.
  - b) Swing circle exceedance. This is typically the water depth or tackle length being incorrectly applied for. The swing circle is calculated using the maximum vessel length, total tackle length and either the Mean High Water (MHW) or Mean Low Water (MLW).
29. Non-compliance can be rectified by relocating the mooring back to the granted location, shortening the tackle length or applying for a section 127 variation to amend conditions of consent.
30. Council's first approach is to work with resource consent holders to enable them to achieve compliance. Continuing or significant non-compliance is undertaken in accordance with Council's enforcement policy.
31. The compliance rate for inspection certificates received is 92%, however there is number of mooring holders who are outstanding with requirements to provide biennial inspections. At the time of this report 490 inspection records were overdue this being ~16% of moorings.

32. Outstanding inspection reports are followed up by Council's Environmental Protection team. There are a limited number of service providers to inspect and service mooring in the Marlborough region, Council's officers take availability of providers into consideration when setting timeframes for the provision of outstanding inspection reports.

### Frequently asked questions

33. Can I service my own mooring?
- a) Anyone can service a mooring as we do not have accredited mooring providers. If self-servicing a mooring, you are still required to provide the service information ie coordinates as per your condition of consent.
  - b) If a mooring is required to be repaired and needs welding, it is required to be lifted by a crane or winch not dragged across the seabed floor therefore you would need to contact a mooring provider.
34. Who can use my mooring?
- a) As moorings are in public space anyone can use a mooring as long as they do not exceed the maximum vessel length for that mooring.
  - b) If someone is on your mooring, politely ask them to move on, if they refuse this becomes a police matter not Council or Harbours.
35. Can I increase my vessel length?
- a) Yes, however a variation (Sec127) is required to upgrade your vessel length if it exceeds the current maximum vessel length condition. This also depends on the current water space and location.
36. What do I need to do if I no longer own my mooring?
- a) If you have sold your mooring a transfer is required and as the current consent holder you are still responsible for the resource consent until the transfer has been processed.
  - b) Coastal permits are required to be formally transferred and signed by all parties.
  - c) NOTE there is an associated transfer fee required to be paid when lodging the transfer with Council.
37. How is my vessel length measured?
- a) Very simply it is measured from bow to stern.

### Presentation

A short presentation will be given by Vanessa Hantz (15 minutes).

Author	Vanessa Hantz, Compliance Monitoring Administration Officer
Authoriser	Claire Frooms, Team Leader Monitoring Programme Coordinator

# 14. New Zealand King Salmon Compliance Monitoring 2021/2022

(Clr Minehan) (Report prepared by Claire Frooms) U140294, U140295, U140296, U160675, U150081,  
U040412, MFL001, MFL456

## Purpose of Report

1. The purpose of this report is to provide the Environment and Planning Committee with an overview of the compliance levels achieved by the New Zealand King Salmon (NZKS) Marine Farms in the Marlborough Sounds following monitoring conducted by Cawthron Institute and SLR in 2021/2022.

## Executive Summary

2. This report details the compliance assessments made at NZKS's marine farms in the Marlborough Sounds. Nine farms were reported on, seven of which have relevant monitoring resource consent conditions. Of these one was found to be significantly non-compliant, two were found to be non-compliant; two were technically non-compliant and two were compliant. The main areas of non-compliance related to benthic environmental quality standards.
3. This report details the compliance levels with the quantitative monitoring of the Enrichment Stage (ES), Environmental Quality Standards (EQS) and the copper and zinc levels at the farms.

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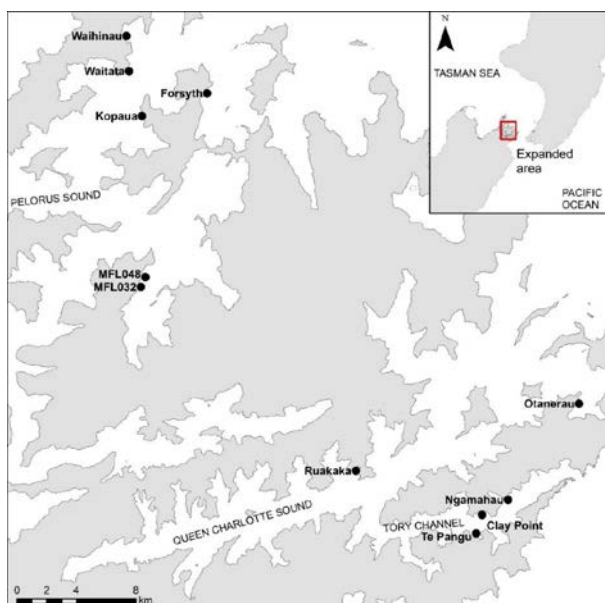
## RECOMMENDATION

That the information be received.

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## Background/Context

4. NZKS is the principal finfish farming company in the Marlborough Sounds and currently has consent to operate finfish farms at 11 sites in the Region (Figure1). Nine of these sites were active in the 2021/2022 monitoring period. The remaining two sites were followed.
5. Figure 1: Location of the New Zealand King Salmon consented areas for salmon farming in the Marlborough Sounds.



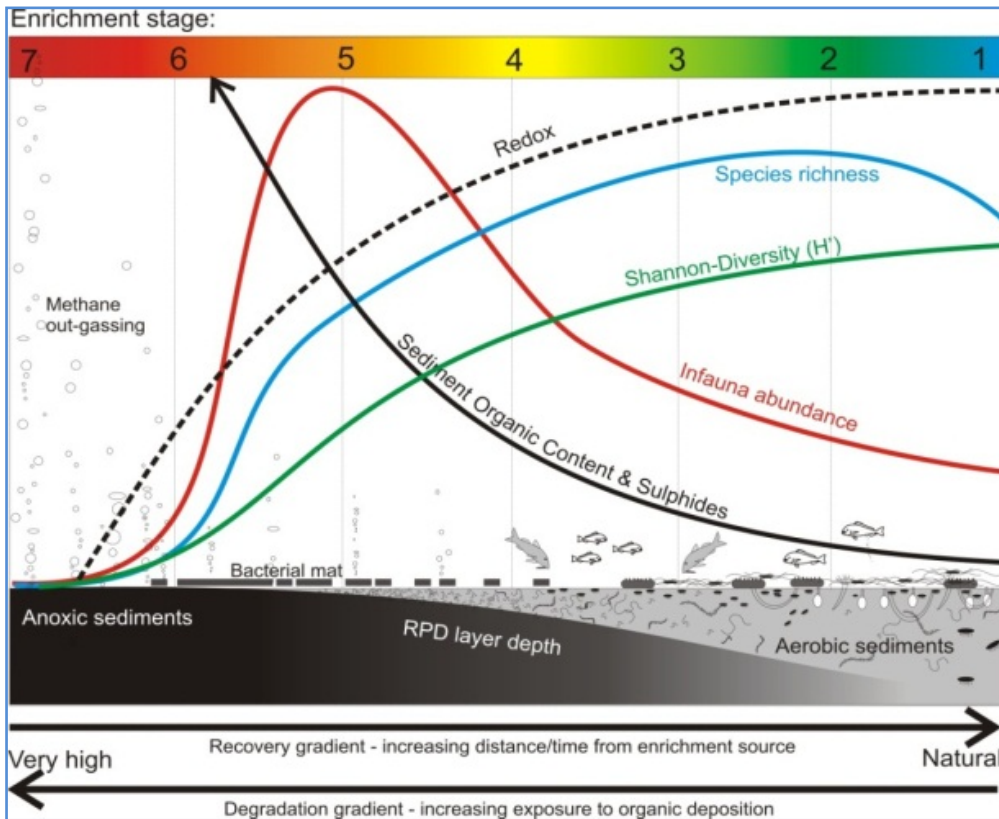
6. Each of these finish farms requires a coastal permit to occupy and operate in a public space.
7. This item covers the monitoring results from annual monitoring at nine existing locations: Forsyth Bay; Waihinau Bay; Ruakaka Bay; Otanerau Bay (low flow farms) and Clay Point; Te Pangu Bay; Ngamahau; Waitata Reach; Kopaua (high flow farms).
8. The two farm locations at Crail Bay were not occupied in 2021/2022, no monitoring is required by resource consent and no voluntary monitoring was conducted.
9. Whilst all nine of the monitored marine farms have resource consents, not all provide conditions requiring monitoring. NZKS voluntarily monitor the Waihinau, Ruakaka and Otanerau Bay farms as their consents have no monitoring requirement in relation to their discharges.
10. In late 2014 the Benthic Standards Working Group agreed to the BMP to manage farms within environmental limits. The objectives of the BMP guidelines include:
  - a) To develop a standardised and accepted protocol to assess environmental compliance;
  - b) To support environmentally responsible and profitable aquaculture;
  - c) To minimise impacts on the environment and thereby minimising risks to biodiversity and associated ecosystem processes;
  - d) To ensure sustainable management.
11. The Cawthron Institute environmental monitoring reports provide information for each of the High Flow farms on the biochemical and biological state of the seabed, and the nutrient status of the water column. Copper and zinc levels in the seabed sediments are also measured.
12. SLR provided monitoring reports for each of the low flow farms to determine compliance with the farms consent conditions. These were granted prior to development of the BMP-Benthic guidelines. Compliance with the BMP has not been assessed for these farms.

### **Enrichment Stage Conditions**

13. Enrichment of the seabed is caused by fish waste and uneaten fish food falling onto the seabed. The state of the seabed was assigned an enrichment stage (ES) score by Cawthron Institute. Some of the resource consents set out a maximum permitted ES or Environmental Quality Standard (EQS) level. Where there is a conflict between the BMP and resource consent conditions, the resource consent conditions prevail.
14. The BMP guidelines adopt a quantitative enrichment stage scale to characterise the benthic state. The guidelines specify an industry operational goal of  $ES \leq 5.0$  within the zone of maximal effect ("ZME"). An ES of 5.0 is described as very high enrichment.
15. Enrichment causes changes in the types and number of organisms which inhabit the sediments. Excessive levels can harm seabed life as oxygen is depleted and anaerobic processes take over.
16. The NZKS finfish farms are broadly divided into "low flow" (<10 cm/s) and "high flow" (>10cm/s) sites.
17. Farms in low flow environments receive greater concentrations of organic material beneath the pens than higher flow farms where particles are more widely dispersed. This makes managing low flow farms challenging as the seabed can be overwhelmed and stop assimilating organic material even under low levels of feed discharge.
18. Figure 2 shows a stylised depiction of a typical enrichment gradient experienced at low flow sites (from Keely, 2013), showing generally understood responses in commonly measured environmental variables (species richness, infauna abundance, sediment organic content and sulfides and redox). Apparent Redox Potential Discontinuity depth (aRPD) and prevalence of bacteria (*Beggiatoa* sp.) mats

and methane / HS out-gassing also indicated. The gradient spans from pristine conditions on the right (ES = 1.0) to highly enriched azoic conditions on the left (ES = 7.0).

19. Figure 2: Enrichment stages



20. In order to achieve compliance with resource consent conditions at some of the marine farms full compliance with the EQS must be achieved. This includes the quantitative ES score at each zone and also qualitative standards at each zone, as shown in Table 1.

21. Table 1: EQS requirements for Waitata Reach Marine Farm

Zone	Compliance Monitoring Location	EQS
Zones 1 & 2 – beside and beneath the net pens	Measured beneath the edge of the net pens – “Pen” Stations on Figure 3	ES ≤ 5.0 No more than one replicate core with no taxa (azoic), No obvious, spontaneous out-gassing (H <sub>2</sub> S/methane), Bacteria mat ( <i>Beggiatoa</i> ) coverage not greater than localized/patchy in distribution.
Zone 3 – near to the net pens	Measured at the Zone 2/3 Boundary Stations on Figure 3	ES ≤ 4.0 Infauna abundance is not significantly higher than at corresponding “Pen” Station Number of taxa >75% of number at relevant / appropriate reference Station(s)
Zone 4 – outside the footprint area	Measured at the Zone 3/4 Boundary Stations on Figure 3	ES < 3.0 Conditions remain statistically comparable with relevant / appropriate reference Station(s)





22. Monitoring results provided by Cawthron Institute in relation to the High Flow sites show that the farms are in compliance with both resource consent conditions and BMP guidelines in relation to the overall ES levels.
23. Monitoring at the low flow sites was carried out by SLR rather than Cawthron. This change in reporting only allows a comparison with the last year's results as the reports and analysis does not follow BMP guidelines. Compliance with the BMP for the low flow farms is therefore not assessed this year.
24. SLR reported significant non-compliance with resource consent conditions at Forsyth Bay farm.
25. Figure 3: General descriptions and primary environmental characteristics for the seven enrichment stages as outlined in the BMP Guidelines



**Table 3: General descriptions and primary environmental characteristics for the seven enrichment stages (see Keeley et al. 2012 a,b). HF = High Flow sites (mean mid-water current speeds  $\geq 10$  cm.s<sup>-1</sup>), LF = Low Flow sites (< 10 cm.s<sup>-1</sup>).**














ES	General description	Environmental characteristics
1.0	<b>Pristine end of spectrum.</b> Clean unenriched sediments. Natural state, but uncommon in many modified environments	LF Environmental variables comparable to an unpolluted / un-enriched pristine reference station.
		HF As for LF, but infauna richness and abundances naturally higher (about 2 × LF) and %organic matter (OM) slightly lower.
2.0	<b>Minor enrichment.</b> Low-level enrichment. Can occur naturally or from other diffuse anthropogenic sources. 'Enhanced zone.'	LF Richness usually greater than for reference conditions. Zone of 'enhancement' – minor increases in abundance possible. Mainly a compositional change. Sediment chemistry unaffected or with only very minor effects.
		HF As for LF
3.0	<b>Moderate enrichment.</b> Clearly enriched and impacted. Significant community change evident.	LF Notable abundance increase; richness and diversity usually lower than reference station. Opportunistic species (i.e. Capitellid worms) begin to dominate.
		HF As for LF
4.0	<b>High enrichment.</b> Transitional stage between moderate effects and peak macrofauna abundance. Major community change.	LF Diversity further reduced; abundances usually quite high, but clearly sub-peak. Opportunistic species dominate, but other taxa may still persist. Major sediment chemistry changes (approaching hypoxia).
		HF As above, but abundance can be very high while richness and diversity are not necessarily reduced.
5.0	<b>Very high enrichment.</b> State of peak macrofauna abundance.	LF Very high numbers of one or two opportunistic species (i.e. Capitellid worms, nematodes). Richness very low. Major sediment chemistry changes (hypoxia, moderate oxygen stress). Bacterial mat usually evident. Out-gassing occurs on disturbance of sediments.
		HF Abundances of opportunistic species can be extreme (10 × LF ES 5.0 densities). Diversity usually significantly reduced, but moderate richness can be maintained. Sediment organic content usually slightly elevated. Bacterial mat formation and out-gassing possible.
6.0	<b>Excessive enrichment.</b> Transitional stage between peak abundance and azoic (devoid of any organisms).	LF Richness and diversity very low. Abundances of opportunistic species severely reduced from peak, but not azoic. Total abundance low but can be comparable to reference stations. %OM can be very high (3–6 × reference).
		HF Opportunistic species strongly dominate, with taxa richness and diversity substantially reduced. Total infauna abundance less than at stations further away from the farm. Elevated %OM and sulfide levels. Formation of bacterial mats and out-gassing likely.
7.0	<b>Severe enrichment.</b> Anoxic and azoic; sediments no longer capable of supporting macrofauna with organics accumulating.	LF None, or only trace numbers of infauna remain; some samples with no taxa. Spontaneous out-gassing; bacterial mats usually present but can be suppressed. %OM can be very high (3–6 × reference).
		HF Not previously observed — but assumed similar to LF sites.



26. Table 2: Enrichment stage / Benthic conditions results summary for Zone of Maximum Effects (ZME)

Low Flow Sites					
Waihinau (Flow 8.4 cm/s)	2021/2022 Result Benthic conditions assessment	2021/2022 Result Benthic conditions assessment	Estimated increase/de crease in ES from previous year	RC Benthic Condition Compliance	BMP Compliance
Zone 1	<p>No azoic conditions sampled. High numbers of two species of opportunistic taxa, indicative of high enrichment. Major sediment chemistry changes.</p> <p>Bacterial mat (~10% coverage) present at Pen 1.</p> <p>No outgassing observed.</p>	<p>Bacterial mats were observed at both pen stations (50-60% coverage). Outgassing was observed upon disturbance. Sediments were considered to be anoxic but no samples were azoic.</p>		N/A	Not assessed
<b>Comment</b>	The presence of bacterial mat and outgassing upon disturbance is indicative of very high enrichment (ES 5). No samples were azoic so ES 6 doesn't appear to have been triggered at this point.				
Ruakaka (Flow 3.7 cm/s)	2020/2021 Result Benthic conditions assessment	2021/2022 Result Benthic conditions assessment	Estimated increase/de crease in ES from previous year	RC Benthic Condition Compliance	BMP Compliance
Zone 1	<p>One pen sample was anoxic. Bacterial mat coverage observed at pens.</p> <p>Regular outgassing observed on disturbance of sediments.</p>	<p>No bacterial mats or outgassing observed. Sediments were not considered to be anoxic. No samples were considered to be azoic.</p> <p>Zinc levels were elevated.</p>		N/A	Not assessed
<b>Comment</b>	Major sediment changes is indicative of ES 5 or higher but the absence of bacterial mat and				

	outgassing indicates level 4.				
<b>Forsyth (Flow 3.0 cm/s)</b>	<b>2020/2021 Result Benthic conditions assessment</b>	<b>2021/2022 Result Benthic conditions assessment</b>	<b>Estimated increase/de crease in ES from previous year</b>	<b>RC Benthic Condition Compliance</b>	<b>BMP Compliance</b>
Zone 1	No azoic conditions but impacted conditions. Significant difference in community composition with distance from the pens. Major sediment chemistry changes. Four taxa contribute to over 90% of the macrofauna community composition in zone 1.	Some samples were indicative of anoxic conditions and one station included >20% azoic samples.			Not assessed
<b>Comment</b>	Azoic and anoxic conditions indicate ES level 7. Forsyth Bay Farm has been followed as a management response.				
<b>Otanerau (Flow 6.0 cm/s)</b>	<b>2020/2021 Result Benthic conditions assessment</b>	<b>2021/2022 Result Benthic conditions assessment</b>	<b>Estimated increase/de crease in ES from previous year</b>	<b>RC Benthic Condition Compliance</b>	<b>BMP Compliance</b>
Zone 1	Five taxa contribute to over 93% of the community in zone 1. The numerically dominant marine worms are a strong indication an area is highly enriched. Major sediment chemistry changes.	No azoic or anoxic samples were collected. Some patchy bacterial mat cover. Outgassing observed upon disturbance. Zinc concentrations were elevated.			Not assessed
<b>Comment</b>	Outgassing on disturbance and major sediment chemistry changes indicates ES 5.				

High Flow Sites				
Clay Point (Flow 19.6 cm/s)	Enrichment stage ( 95% CI)			
	2021/2022 Result	Increase/decrease in ES from previous year	RC Condition Compliance	BMP Compliance
Pen 1	4.5 (0.0)		≤ 5.0	≤ 5.0
Pen 2	3.5 (0.2)		≤ 5.0	≤ 5.0
Pen 3	3.5 (0.3)		≤ 5.0	≤ 5.0
Waitata (Flow 17.6 cm/s)	Enrichment stage ( 95% CI)			
	2021/2022 Result	Increase/decrease in ES from previous year	RC Condition Compliance	BMP Compliance
Pen 1	2.6		≤ 5.0	≤ 5.0
Pen 2	2.5		≤ 5.0	≤ 5.0
Pen 3	2.8	No change	≤ 5.0	≤ 5.0
Kopaua (Richmond) (Flow 15.7 cm/s)	Enrichment stage ( 95% CI)			
	2021/2022 Result	Increase/decrease in ES from previous year	RC Condition Compliance	BMP Compliance
Pen 1	4.6 (0.2)	No change	≤ 5.0	≤ 5.0
Pen 2	4.4 (0.1)		≤ 5.0	≤ 5.0
Pen 3	4.3 (0.0)		≤ 5.0	≤ 5.0
Ngamahau (Flow 21.1 cm/s)	Enrichment stage ( 95% CI)			
	2020/2021 Result	Increase/decrease in ES from previous year	RC Condition Compliance	BMP Compliance
Pen 1	3.4 (0.1)		≤ 5.0	≤ 5.0
Pen 2	3.7 (0.1)		≤ 5.0	≤ 5.0
Pen 3	3.4 (0.4)		≤ 5.0	≤ 5.0
Te Pangu (Flow 15 cm/s)	Enrichment stage ( 95% CI)			
	2021/2022 Result	Increase/decrease in ES from previous year	RC Condition Compliance	BMP Compliance
Pen 1	4.8 (0.1)		≤ 5.0	≤ 5.0
Pen 2	4.3 (0.1)		≤ 5.0	≤ 5.0
Pen 3	3.7 (0.1)		≤ 5.0	≤ 5.0



### Copper and Zinc Conditions

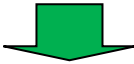
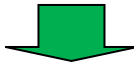




27. Copper and zinc can accumulate in sediments beneath finfish farming operations. Copper is the principal active agent in antifouling paints that may be applied to underwater structures. Salmon feed contains zinc as an additive for fish health, leading to its discharge in faecal matter and uneaten feed.



28. These metals do not breakdown overtime; nor are they utilised by biota at rates which would attenuate over following timescales. Metals may reduce in sediment overtime through resuspension and dispersion.
29. NZKS consents granted since 2014 include conditions on copper and zinc monitoring and limits based on Interim Sediment Quality Guidelines (ISQS) of the Australian and New Zealand Environment and Conservation Council (ANZECC (2000)). These are the same standards recommended in the BMP guidelines; therefore compliance of copper and zinc levels below all nine marine farms has been assessed solely in accordance with these ANZECC ISQS concentrations.
30. Table 3: ANZECC (2000) Interim Sediment Quality Guideline concentrations for copper and zinc (mg/kg)


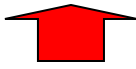
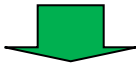




	ISQG-Low	ISQG-High
Copper	65	270
Zinc	200	410

31. There was a general trend of decreasing copper and zinc levels at the farms, with some exceptions including at Forsyth Bay where copper and zinc levels both increased.
32. Overall compliance was achieved with resource consent conditions governing copper and zinc levels at the farm.
33. Table 4: Copper and Zinc Levels

Low Flow Sites				
Waihinau (Flow 8.4 cm/s)	Copper and Zinc Levels			
	2021/2022 Result	Increase/decrease in results from previous year	RC Condition compliance	BMP Compliance
Copper	Overall Pen average 25 (±3.7) mg/Kg		N/A	Compliant
Zinc	Overall Pen average 281 (±23.9) mg/Kg		N/A	Non-compliant with ISQG-Low
Ruakaka (Flow 3.7 cm/s)	Copper and Zinc Levels			
	2021/2022 Result	Increase/decrease in results from previous year	RC Condition compliance	BMP Compliance

Copper	Overall Pen average 81.7 (±14.5) mg/Kg		N/A	Non-compliant with ISQG-Low
Zinc	Overall Pen average 402 (±32.7) mg/Kg		N/A	Non-compliant with ISQG-Low
<b>Forsyth (Flow 3.0 cm/s)</b>	<b>Copper and Zinc Levels</b>			
	<b>2021/2022 Result</b>	<b>Increase/decrease in results from previous year</b>	<b>RC Condition compliance</b>	<b>BMP Compliance</b>
Copper	Overall Pen average 44.5 (±7.0) mg/Kg		N/A	Compliant
Zinc	Overall Pen average 376.7 (±37.7) mg/Kg		N/A	Non-compliant with ISQG-Low
<b>Otanerau (Flow 6.0 cm/s)</b>	<b>Copper and Zinc Levels</b>			
	<b>2021/2022 Result</b>	<b>Increase/decrease in results from previous year</b>	<b>RC Condition compliance</b>	<b>BMP Compliance</b>
Copper	Overall Pen average 67 (±12) mg/Kg		N/A	Compliant
Zinc	Overall Pen average 408 (±93.7) mg/Kg		N/A	Non-compliant with ISQG-Low

<b>High Flow Sites</b>				
<b>Clay Point (Flow 19.6 cm/s)</b>	<b>Copper and Zinc Levels</b>			
	<b>2021/2022 Result</b>	<b>Increase/decrease in results from previous year</b>	<b>RC Condition compliance</b>	<b>BMP Compliance</b>
Copper	Overall Pen average 12.1 mg/Kg		Compliant	Compliant
Zinc	Overall Pen average 104.7 mg/Kg		Compliant	Compliant
<b>Waitata (Flow 17.6 cm/s)</b>	<b>Copper and Zinc Levels</b>			
	<b>2021/2022 Result</b>	<b>Increase/decrease in results from previous year</b>	<b>RC Condition compliance</b>	<b>BMP Compliance</b>

Copper	Overall Pen average 6.7 mg/Kg		Compliant	Compliant
Zinc	Overall Pen average 163 mg/Kg		Compliant	Compliant
<b>Kopaua (Richmond) (Flow 15.7 cm/s)</b>	<b>Copper and Zinc Levels</b>			
	<b>2021/2022 Result</b>	<b>Increase/decrease in results from previous year</b>	<b>RC Condition compliance</b>	<b>BMP Compliance</b>
Copper	Overall Pen average 6.8 mg/Kg		Compliant	Compliant
Zinc	Overall Pen average 99 mg/Kg		Compliant	Compliant
<b>Ngamahau (Flow 21.1 cm/s)</b>	<b>Copper and Zinc Levels</b>			
	<b>2021/2022 Result</b>	<b>Increase/decrease in results from previous year</b>	<b>RC Condition compliance</b>	<b>BMP Compliance</b>
Copper	Overall Pen average 4 mg/Kg	No Change	Compliant	Compliant
Zinc	Overall Pen average 36.7 mg/Kg		Compliant	Compliant
<b>Te Pangu (Flow 15 cm/s)</b>	<b>Copper and Zinc Levels</b>			
	<b>2021/2022 Result</b>	<b>Increase/decrease in results from previous year</b>	<b>RC Condition compliance</b>	<b>BMP Compliance</b>
Copper	Overall Pen average 25.7 (±14.6) mg/Kg		Compliant	Compliant
Zinc	Overall Pen average 149.3 (±10.4) mg/Kg		Compliant	Compliant

### Further Compliance Assessment

34. Resource consents for the individual marine farms also detail a number of other conditions, relating to both environmental impacts and otherwise. Compliance with consent conditions has been assessed using Council's compliance scoring where each is determined to be either: Unable to assess; Compliant; Technically Non-Compliant; Non-Compliant; or Significantly Non-Compliant.

35. Table 5: Summary of overall compliance with resource consent conditions at high flow sites.

High Flow Sites				
<b>Clay Point (Flow 19.6 cm/s)</b>				
ES	Copper & Zinc	Water Column	WQS	Sampling & reporting requirements
Compliant	Compliant	Compliant	Compliant.	Compliant
<b>Waitata (Flow 17.6 cm/s)</b>				

ES	Copper & Zinc	Water Column	WQS	Sampling & reporting requirements
Compliant	Compliant	Unable to assess – The annual report states that further analysis is required to determine whether there is a link between the farm and any reported nitrate concentrations and any statistically significant trends in water quality.	Non-compliant – Outcomes of the previous WQS review have yet to be implemented.	Technically non-compliant – Lighting effects monitoring was not carried out or reported in accordance with the MEMAMP
<b>Kopaua (Richmond) (Flow 15.7 cm/s)</b>				
ES	Copper & Zinc	Water Column	WQS	Sampling & reporting requirements
Non-Compliant – ES levels in zone 4 were statistically higher than at reference stations.	Compliant	Unable to assess – The annual report states that further analysis is required to determine whether there is a link between the farm and any reported nitrate concentrations and any statistically significant trends in water quality.	Non-compliant – A review of WQS has not taken place as required.	Technically non-compliant – Lighting effects monitoring was not reported in full. Statistical analysis was not provided as it should be.
<b>Ngamahau (Flow 21.1 cm/s)</b>				
ES	Copper & Zinc	Water Column	WQS	Sampling & reporting requirements
Compliant	Compliant	Compliant	Compliant	Technically non-compliant – The nominated pen corner for monitoring purposes has been moved.  The methodology for soft sediment sampling was not followed exactly (three samples were taken rather than five).
<b>Te Pangu (Flow 15 cm/s)</b>				

ES	Copper & Zinc	Water Column	WQS	Sampling & reporting requirements
Compliant	Technically non-compliant – a single sample under Pen 3 exceed the ANZECC_ISQG-Low. All others were within the guidelines.	N/A	<p>Dissolved Oxygen levels exceeded WQS(1) on four occasions but not for three successive months so an amber state was not triggered.</p> <p>In March TN concentrations at NZKS21 were below those recorded at the far-field reference station NZKS22.</p>	Unable to assess - Level 3 monitoring was required but the sampling design was not provided to Council for this year so assessment against the sampling design could not be assessed.

## Summary

36. Nine Marlborough Sounds New Zealand King Salmon marine farms were assessed during this monitoring period and as a result a number of non-compliances with resource consent conditions were identified.
37. The overall compliance assessment of all nine farms generated one significantly non-compliant, two non-compliant and two technically non-compliant marine farms. The remaining farms were either compliant or had no relevant resource consent conditions. These assessments were reviewed by Council's Compliance QA Peer Review Panel where one infringement notice was recommended for the significantly non-compliant farm and a letter of direction was recommended in response to the other non-compliances.
38. An infringement and a letter of direction have been issued to the New Zealand King Salmon Company in relation to the non-compliances identified during the 2021-2022 monitoring period.

## Presentation

A short presentation will be given by Claire Frooms (15 minutes).

## Attachment

**Attachment 1** – NZKS Compliance Snapshot





Author	Claire Frooms, Compliance Monitoring Team Leader
Authoriser	Gina Ferguson, Consents and Compliance Group Manager



# New Zealand King Salmon Benthic Compliance Monitoring 2021/22 Snapshot



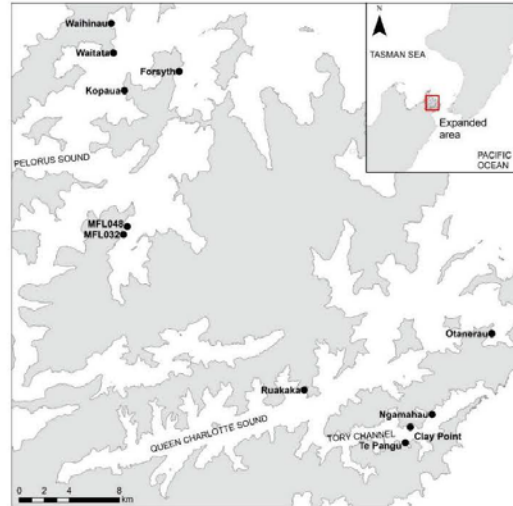
## KEY POINTS

-  9 Salmon Farms monitored
-  9 Salmon Farms operating during 2021/22 season
-  4 low flow sites monitored
-  5 high flow sites monitored
-  5/9 of the sites some level of non-compliance with consent conditions
-  1/9 significantly non-compliant with resource consent conditions
-  2/9 non-compliant with resource consent conditions
-  2/9 technically non-compliant with resource consent conditions
-  5/5 of the sites with Resource Consent Copper and Zinc parameters in compliance.
-  4/9 sites compliant with BMP guideline for Copper and Zinc parameters.
-  1 infringement issued for non-compliance

## Snapshot of the 2021/22 benthic monitoring

### 2021/22 monitoring period

NZKS currently has consent to operate finfish farms at 11 sites in the Marlborough Sounds. Nine of these farms were active and monitored in 2021/2022. The remaining sites were followed. Many of the NZKS resource consents require annual environmental monitoring as a condition of consent. NZKS undertakes voluntary annual environmental monitoring of the other sites.



The Cawthron Institute reports provide information for each high flow farm on the biochemical and biological state of the seabed, and the nutrient status of the water column. SLR Consulting Ltd reports provide information for each low flow farm on the same parameters. Copper and zinc levels in the seabed sediments are also monitored by both science providers.

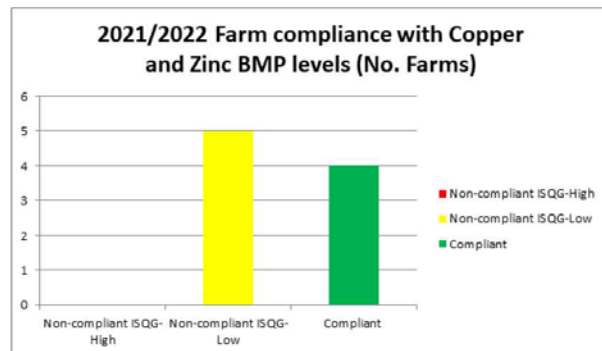
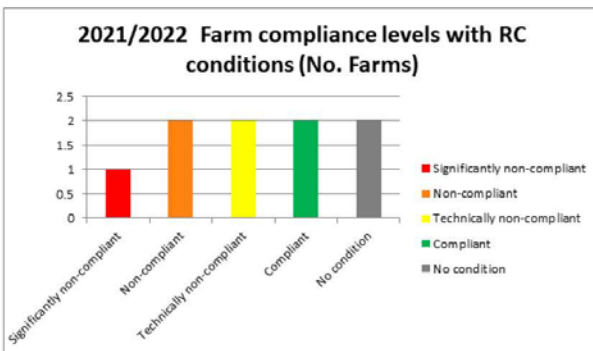
The farms are broadly divided into “low flow” (<10 cm/s) and “high flow” (>10cm/s) sites. The monitoring results from annual monitoring at nine existing farm locations: Forsyth Bay, Waihinahu Bay, Ruakaka Bay, Otanerau Bay (low flow farms) and Clay Point, Te Pangu, Ngamahau, Waitata, Kopaua (high flow farms). The two farm locations in Crail Bay were not occupied in 2020/2021.

Whilst all nine of the monitored marine farms have resource consents, not all provide conditions requiring monitoring. Those farms sampled and analysed following the Best Management Practice Guidelines for salmon farms in the Marlborough Sounds: Benthic environmental quality standards and monitoring protocol (“the BMP”), were assessed for compliance against these guidelines.

### Enrichment Stage Compliance

Enrichment of the seabed is caused by fish waste and uneaten fish food falling on the seabed. The state of the seabed was assigned an enrichment stage score by Cawthron, whilst SLR Consulting Ltd used univariate and multivariate data analysis to statistically evaluate sediment enrichment. Some of the resource consents have a maximum permitted level of enrichment and the BMP provides a permitted level of enrichment stage, which can be applied to all farms.

Monitoring results showed that not all farms are in compliance with the enrichment stage levels within individual consents and compliance with the other environmental quality standards was also inconsistent.



# New Zealand King Salmon Benthic Compliance Monitoring 2021/22 Snapshot



## Copper and Zinc Compliance

Copper and zinc monitoring and limits based on Interim Sediment Quality Guidelines (ISQs) of the Australian and New Zealand Environment and Conservation Council (ANZECC (2000)). These are the same standards recommended in the BMP guidelines; therefore compliance of copper and zinc levels for all nine marine farms has been assessed solely in accordance with these ANZECC ISQS concentrations. Of the NZKS sites with resource consent conditions that relate to Copper and Zinc 100% complied with their conditions of consent. Four of the nine monitored salmon farms complied with the BMP copper and zinc parameters. Of the remaining five salmon farms, 4 were non-compliant with the ISQG-Low and none were non-compliant with the ISQG-High.

	ISQG-Low	ISQG-High
Copper	65	270
Zinc	200	410

## Summary of Compliance Rating System

Results reported in this snapshot reflect the compliance of NZKS Farms with the benthic monitoring conditions within resource consents and compliance with the Marlborough Sounds: Benthic environmental quality standards and monitoring protocol (BMP)

No conditions	Compliant	Technical Non-compliant	Environmental Non-compliant	Significantly Non-compliant
Where conditions for environmental monitoring do not exist monitoring is completed by NZKS voluntarily.	Compliance with the BMP and/or the Conditions assessed.	Non-compliance with the condition or BMP which are considered to be technical where no environmental effect is observed or further information is required	Breach of benthic condition or BMP with moderate actual or potential adverse environmental effects.	Significant breach of benthic conditions or BMPs that causes environmental effects.

## Summary

- There was one low flow farm which recorded significant non-compliance enrichment stage results.
- High flow sites are in compliance with resource consent conditions for Copper and Zinc levels. Low flow farms don't have relevant resource consent conditions but were either non-compliant with the ISQG-Low or compliant with BMP guidelines for Copper and zinc levels.
- Where conditions for environmental monitoring do not exist monitoring is completed by NZKS voluntarily.
- The BMP guidelines provide an adaptive management response for dealing with instances of non compliance.
- These guidelines for management response have been followed by New Zealand King Salmon.

## For More Information

For more information on compliance and enforcement monitoring undertaken by Marlborough District Council, contact the Environmental Protection Group

**Phone:** 03 520 7400  
**Email:** [monitoring@marlborough.govt.nz](mailto:monitoring@marlborough.govt.nz)  
**Website:** [www.marlborough.govt.nz](http://www.marlborough.govt.nz)



## 15. Information Package

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### RECOMMENDATION

That the Regulatory Department Information Package dated 20 April 2023 be received and noted.

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