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18 August 2023

Record No: 23171428
File Ref: D050-001-E01
Ask For: Nicole Chauval

Notice of Committee Meeting – Thursday 24 August 2023

A meeting of the Environment & Planning Committee will be held in the Council Chambers, 15 Seymour Street, Blenheim on Thursday, **24 August 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, 24 AUGUST 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)

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. Significant Natural Areas Programme Annual Report 2022/2023

(also refer separate report on Council's website)

(Clr Hope) (Report prepared by Mike Aviss)

E310-006-001, E310-12-003

Purpose of Report

1. To update the Committee on the results of the Significant Natural Areas Programme 2022/2023.

Executive Summary

2. This report records the outputs of the Significant Natural Areas (SNA) programme over the 2022/23 year, including new sites surveyed, the restoration or management of threats in SNAs and the monitoring of their condition. It also reports on the results of associated projects, such as native seed collection and publicity.
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RECOMMENDATION

That the report be received.

Background/Context

3. Through the Resource Management Act 1991 and pursuant to the Biodiversity Chapter in the Marlborough Environment Plan, the Council has a role in maintaining and protecting indigenous biodiversity and significant natural areas in the Marlborough region.
4. Since 2001 the Council has implemented the SNA programme, which has involved extensive field based ecological survey work and a subsequent protection and monitoring programme.
5. The 2022/23 SNA report is attached to this report which provides an overview of activities and projects undertaken during the year.

Programme Highlights

6. The total number of SNA sites mapped in our database is now 778 along with 142 RAPs (DOC's Recommended Areas for Protection).
 7. The survey programme of SNAs is ongoing as landowners agree to provide access to their land. 6 new SNA sites were identified, documented and mapped during 2022/23.
 8. New information from DOC has allowed another 56 sites in Molesworth to be added to the database.
 9. Our Landowner Assistance Programme helps landowners to help protect and restore SNA sites. There are currently 34 projects active, with \$200,072 of Council funding spent on managing sites during this reporting period. With other contributions made, including from landowners, this amounted to \$646,931.
 10. This funding assistance has been provided to 156 sites since 2003. In that time, \$1,621,938 has been allocated by MDC and this has leveraged funds from landowners and others totalling \$4,714,928 spent protecting and enhancing SNAs in Marlborough.
 11. The SNA monitoring programme was active in visiting 26 sites: 10 Managed and 16 Un-Managed. As expected, managed sites were in better condition and trend than un-managed sites, however the overall condition and trend of all sites was mostly encouraging.
 12. Modification of the coast by the 2016 earthquake uplift and the subsequent increased access by vehicles into the coastal environment is an ongoing issue effecting threatened indigenous ecosystems and species. After consulting with the community, Council introduced a Bylaw in 2023 to address
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damage and access issues. Restoration of indigenous biodiversity along the coast has become an important focus for the SNA programme.

Next Steps

13. That the SNA report will be made available on the website.

Presentation

A short presentation will be given by Mike Aviss (10 minutes).

Attachment

Attachment 1 – Summary Report on the Results of the Significant Natural Areas Project 2022-23. The report is available on Council’s website via the following link <https://www.marlborough.govt.nz/your-council/meetings>

Author	Mike Aviss, Biodiversity Coordinator
Authoriser	Peter Hamill, Team Leader Land & Water

4. 2023 Rainfall SoE Report

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

(Cllr Burgess) (Report prepared by Charlotte Tomlinson)

E320-002-001

Purpose of Report

1. To provide an update on rainfall for the 2022/23 hydrological year, and summary statistics for long-term rainfall monitoring sites in Marlborough.

Executive Summary

2. The Marlborough District Council (MDC) currently monitors rainfall at 27 sites throughout the region. There are also a number of rainfall monitoring stations operated by NIWA, the Marlborough Research Centre, and Fire & Emergency New Zealand.
3. Rainfall data from 35 monitoring stations across Marlborough have been analysed for this report. 14 of those sites have 30 or more years of data available, and seasonal and monthly statistics have been calculated for these sites.
4. Over the past five years, three new rainfall sites have been installed by MDC. These are Picton at Waitohi Domain, Branch at Mount Morris and Lake Elterwater.
5. The 2022/23 hydrological year had between 20-60% more rainfall than average across the entire region. In Northern Marlborough, 2022/23 had more rainfall in total than the year prior, however from the Richmond Ranges south 2021/22 was the wetter of the two years.
6. 1972/73 was one of the driest years on record in Marlborough, although few rainfall monitoring stations were established at this time. Rainfall data from Wairau Valley at Southwold confirms that 1972/73 was the driest year in 105 years of data collection (1918-2023), with 596 mm of rain. 2000/01 is another prominent drought year, with 618 mm of rainfall recorded at Southwold and just 305 mm of rain in Blenheim. Although 1972/73 had less rainfall in total than 2000/01, summer 2000/01 has the lowest rainfall of any season at most monitoring sites. For example, Taylor at Tinpot recorded 37 mm of rain in the summer of 2000/01, compared to 54 mm in the 1972/73 summer.
7. Winter 2022 has the highest rainfall of any season at 12 out of the 14 long-term monitoring sites, including at Linkwater (established 1938) and Wairau Valley at Southwold (established 1917).
8. In Blenheim, July 2022 became the wettest month in 93 years with 220 mm of rain, which is also the first time monthly rainfall has exceeded 200 mm in Blenheim.
9. August 2022 was the first month where over 1 metre of rainfall was recorded at a monitoring site in Marlborough, with 1,241 mm recorded at Tunakino.
10. The full 2023 Rainfall SoE Report is appended to this document.

RECOMMENDATION

That the report and presentation be received.

Background/Context

11. Under Section 35 of the Resource Management Act (1991) councils must undertake State of Environment monitoring. Annual SoE reports/report cards are used to compile and assess information that can tell us something about the condition of the environment.

Next Steps

12. The 2024 rainfall SoE report will focus on analysing rainfall from selected sites with long-term records to identify any changes in rainfall over time.

Presentation

A short presentation will be given by Charlotte Tomlinson (10 minutes).

Attachment

Attachment 1 – 2023 Rainfall SoE Report is available on Council's website via the following link
<https://www.marlborough.govt.nz/your-council/meetings>

Author	Charlotte Tomlinson, Environmental Scientist - Hydrology
Authoriser	Alan Johnson, Environmental Science & Monitoring Manager

5. 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. Environment Court mediation on all topics has now been completed.
4. Good progress has been made in resolving appeals. Since the last report to the Environment and Planning Committee on 13 July 2023, five further consent memoranda have been issued by the Environment Court. A further two consent memoranda are currently being considered by the Court and six further consent memoranda are in preparation.

RECOMMENDATION

That the report be received.

Background/Context

5. The PMEP Hearings Panel publicly notified their decision on the PMEP on 22 February 2020.
6. 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>. There were a total of 1307 appeal points.
7. 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.
8. 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.
9. 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".
10. Given the number of appeal points (1307), the resolution of appeals has been a focus of the work programme of the Environmental Policy Group and continues to be so. However, given the progress with the resolution appeals documented in previous reports to the Committee, being able to make the PMEP operative or operative in part is getting closer.

MEP Appeals Version

11. 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

12. To date, 11 appeals have been resolved in full and five appeals have been withdrawn. The status of all appeals is recorded in Attachment 1. There are a total of 36 notices of appeal remaining.
13. Progress with resolution of appeals by topic is included in Attachment 2. This is a new method of reporting progress.
14. A total of 43 consent orders have been issued by the Environment Court.
15. Since the last report to the Environment and Planning Committee on 13 July 2023, the Court has issued five further consent orders. The consent orders resolve appeals in a wide variety of topics (see below).
16. Two further consent memoranda have been submitted to the Environment Court for its consideration in that time.
17. Six further consent memoranda are in preparation (see below).
18. Discussions during mediation have been positive and outcome focussed, and substantial progress has been made on resolving appeals. See Attachment 2 for further information.
19. At this point in time, only one appeal point is to be heard by the Environment Court. There is one other appeal point, on coastal occupancy charges, that may be heard by the Environment Court.
20. Where there are outstanding appeal points, either workstreams are in place to progress resolution or the appeal points are on hold pending other processes. The details are set out below.

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. Environment Court mediation has now been completed for all 22 topics. In total, there were more than 80 days of mediation over a period of two and a half years.
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 Topic has involved lengthy mediation and discussions between the parties since February 2021, as set out in previous reports to the Committee.
27. Many appeal points have now been agreed and a substantive consent memorandum was submitted to the Court on 13 March 2023. The Court issued a consent order for these appeal points on 17 July 2023.
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). The Court issued a consent order for

these appeal points on 24 May 2023. There is one outstanding appeal point (in part) on this sub-topic, and a work programme on this matter is in progress.

29. Finally, agreement was 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. The Court issued a consent order for these appeal points on 24 May 2023.
30. Appeals on Policies 6.2.1 and 6.2.2 have now been resolved and a consent memorandum is currently in circulation.
31. Many of the remaining appeal points in the Natural Character Topic are on hold pending the outcome of Variation 1 (see below).

Indigenous Biodiversity

32. 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.
33. There are outstanding appeal points in this topic that were deferred pending the gazettal of the National Policy Statement for Indigenous Biodiversity (NPSIB). The NPSIB was gazetted on 7 July 2023 and it came into effect on 4 August 2023. Work has commenced to consider the content of the NPSIB and any implications on the outstanding matters of appeal.
34. As previously reported, evidence has been exchanged for the appeal point related to King Shag habitat and Important Bird Areas that was not resolved through mediation. 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. The parties are awaiting Court directions regarding the timing of a hearing.
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. The Court issued a consent order for these appeal points on 24 May 2023. There is one outstanding matter yet to be resolved for the indigenous vegetation clearance rules relating to clearance in the Coastal Living Zone. Following further informal mediation, this appeal point has been resolved and a consent memorandum is in preparation.
36. Further mediation on appeals to Appendix 3, criteria for ecological significance, occurred on 17 May 2023. There remain differences between some of the parties, but discussions continue. Those discussions include the effect of the NPS, which also contains criteria for ecological significance for terrestrial environments. The Court has allowed the parties a further two months to consider the implications of the NPSIB.

Transportation

37. Appeals relating to temporary damming were resolved through further mediation on Topic 2: Water Allocation and Use and are now subject to a consent memorandum (see below).
38. There remain two workstreams for outstanding appeal points in the transportation topic. These relate to managing reverse sensitivity effects adjoining State Highway and the Main North Line rail; and to Policy 13.15.2 (which manages adverse effects on marine transportation). Progress is being made on these workstreams.

Natural hazards

39. The outstanding appeal points in this topic related to the flood hazard overlay at Tuamarina and the status of maimai.
40. The flood risk at Tuamarina was reviewed following the flood events of 2021 and 2022 and the results of the review were conveyed to the appellants. Refinement of the flood hazard overlay at Tuamarina has been agreed between the parties because of the review process. A consent memorandum was lodged with the Environment Court on 28 April 2023. The Court issued a consent order for these appeal points on 5 July 2023.

41. The outstanding appeal point relating to maimai is on hold pending another non-RMA planning process.

Waste and discharge of contaminants to land

42. There were two outstanding appeal topics following mediation: The rules for application of fertiliser to land and the discharge of stormwater to land.
43. Agreement was reached on the outstanding appeal point related to fertiliser application and nutrient load. A consent memorandum was submitted to Court on 31 March 2023. The Court issued a consent order for these appeal points on 5 July 2023.
44. There is an ongoing workstream the discharge of stormwater to land.

Forestry

45. The remaining two appeal points are on hold pending the gazettal of the NPS for Indigenous Biodiversity.

Coastal

46. The only remaining appeal in this topic is on coastal occupancy charge provisions. It is likely that this appeal will proceed to a Court hearing, but the parties are awaiting timetabling directions from the Court.

Water Quality

47. All but five appeal points were resolved at mediation. A consent memorandum was lodged with the Environment Court on 11 July 2023. A consent order is now pending.
48. The five outstanding appeal points are currently being discussed with appellants and Section 274 parties.

Water Allocation and Use

49. All appeal points were resolved at mediation. A consent memorandum was lodged with the Environment Court on 19 July 2023. A consent order is now pending.

Other topics

50. Mediation has previously resolved all appeal points for the following topics: Topic 1: Cultural Matters, Topic 11: Rural, Topic 12: Air Quality, Topic 14: Soil Quality and Land Disturbance, Topic 17: Energy, Topic 17: Climate Change, Topic 18: Nuisance, Topic 20: Zoning.

Relationship with Variation 1: Marine Farming

51. A significant number of appeal points made by marine farmers were placed on hold during mediation pending the notification of a decision on Variation 1. This was especially the case for appeal points in Topic 3: Natural Character, Topic 4: Landscape and Topic 5: Indigenous Biodiversity.
52. The decision on Variation 1 was publicly notified on 19 May 2023.
53. The Court directed the parties to report on status of these appeal points within month of the notification date. A comprehensive response was provided by Aquaculture Interests. Some appeal points are to be withdrawn, some appeal points are to be pursued and other appeal points are dependent upon any appeals on the Variation 1 decision.
54. The appeal period for Variation 1 closed on 3 July 2023.
55. The Court then issued a minute setting out a formal period by which appellants were to confirm appeals to be withdrawn or otherwise pursued. Again, a comprehensive response was provided by Aquaculture Interests on 28 July 2023.
56. The Council was required to provide a case management report by 11 August 2023. At the time of writing this report, the case management report is in preparation.

57. It is possible that some outstanding appeals may be able to be mediated conjunctively with appeals on Variation 1.

Next Steps

58. A total of two consent memoranda are now with the Court for consideration and a further six consent memoranda are in preparation. Any resulting consent orders issued by the Court will be reported to the Committee through future updates.
59. Informal mediation on outstanding matters is ongoing. The results will be reported to the Environment Court in accordance with the Court's directions.
60. A significant focus of future effort will be addressing the relationship between outstanding PMEP appeals and Variation 1 appeals.
61. Progress with the resolution of appeals will continue to be regularly reported to the Committee through future agenda items.

Attachments

Attachment 1 - List of appellants page [11]

Attachment 2 - Status of Appeals page [13]

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

Attachment 1

Appellant		Environment Court Reference	Status
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	Withdrawn
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	
Environmental Defence Society Incorporated v MDC		ENV-2020-CHC-67	

Appellant		Environment Court Reference	Status
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	Resolved
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	

Attachment 2

Topic	Status
1: Cultural Matters	Completed: All appeals resolved
2: Water Allocation and Use	Completed: All appeals resolved
3: Natural Character	Substantial progress. Some appeal points on hold pending Variation 1
4: Landscape	Substantial progress. Some appeal points on hold pending Variation 1
5: Indigenous Biodiversity	Substantial progress. Some appeal points on hold pending Variation 1 and/or NPSIB
6: Public Access and Open Space	One remaining appeal point
7: Heritage Resources	Completed: All appeals resolved
8: Natural Hazards	One remaining appeal point
9: Urban Environments	Completed: All appeals resolved
10: Coastal Environments	One remaining appeal point
11: Rural Environments	Completed: All appeals resolved
12: Air Quality	Completed: All appeals resolved
13: Water Quality	Six appeal points remaining
14: Soil and Land Disturbance	Completed: All appeals resolved
15: Waste & Discharges to Land	Three remaining appeal points on two sub-topics
16: Transportation	Three remaining appeal points on two sub-topics
17: Energy & Climate Change	Completed: All appeals resolved
18: Nuisance effects	Completed: All appeals resolved
19: Utilities	Majority of appeal points resolved
20: Zoning	Completed: All appeals resolved
21: Forestry	Two remaining appeal points on one sub-topic
22: Miscellaneous	One remaining appeal point

6. Proposed Variation to the Marlborough Environment Plan – Kerepi Variation

(Clr Hope) (Report prepared by Jamie Sigmund)

M100-11-16

Purpose of Report

1. To approve the preparation and consultation package for a proposed 'Variation' to the Marlborough Environment Plan. This variation relates to the rezoning of land for a property located at 46 Old Renwick Road, referred to as Kerepi.

Executive Summary

2. Approval is sought to proceed with the preparation of a variation to change the zoning of land for a property located at 46 Old Renwick Road, referred to as Kerepi, from 'rural' to 'residential' use.
3. The approval allows the initiation of a process but does not represent the approval of the variation.
4. The preparation of the variation will involve consultation with relevant parties, including landowners, and tangata whenua.
5. Following consultation an evaluation report pursuant to Section 32 of the RMA will be prepared and that documentation along with the final version of the proposed variation will be brought back to the Environment and Planning Committee for approval to progress to public notification in due course.

RECOMMENDATION

That Council approve the preparation of a 'Variation' to the Marlborough Environment Plan, relating to the rezoning of land for a property located at 46 Old Renwick Road, referred to as Kerepi.

Background/Context

6. Council has been approached by Kerepi Ltd to consider a variation to PMEP to rezone the 12ha of **Lot 2 DP57578** within the Proposed Marlborough Environment Plan (PMEP) for residential purposes. The site is currently zoned as 'Rural' within both the Wairau / Awatere Plan and the Proposed Marlborough Environment Plan.
7. The site is located on the North side of Blenheim at 46 Old Renwick Road. It adjoins residentially zoned land comprising Rose Manor to the West, and to the East approximately 300m from the Waipuna Street residential area.
8. The topology is relatively flat, with 1m of fall from the north-western corner to the south-eastern corner. The rezoning site has been highly modified and is currently operated as a production vineyard, with one associated house, and several smaller outbuildings, two managed drains are located on the property.
9. See attached site plan, Attachment 1.
10. The rezoning proposal is made up of two main elements that consist of approximately 5.5ha of land proposed to be rezoned to Urban Residential Two (UR2) 'Greenfields', with the balance (6.4ha) rezoned into a new zone, Urban Residential Four (UR4) 'Greenfields'.
11. It is proposed that the new UR4 zone will be treated as a separate 'variation' to PMEP, with UR4 proposed as an appropriate planning response to considering 'Medium Density Housing' within a 'Greenfields' setting (note a separate agenda item is included in this committee agenda for this variation).

12. It is expected that new 'planning provisions' and 'Volume four' maps will be developed as part of the variation. This detail will accompany the Section 32 assessment and evaluation to be presented back to the committee at a future time.
13. These proposals will be developed and consulted upon with relevant parties including Marlborough's Tangata Whenua Iwi.
14. This proposal must be processed as a 'variation' rather than a 'plan change' as PMEP is not yet 'Operative'. Under the RMA only Council is able to make changes to the proposed plan. Several Council initiated variations to PMEP are already underway.
15. As Council is taking the 'variation' forward to the 'Schedule One' process, it must be assured that all planning matters regarding the site have been identified, and effects where necessary have appropriate solutions to mitigate or manage areas of potential concern have been identified.
16. The agent working on behalf of Kerepi Ltd has commissioned several technical reports to support the variation process to date, this includes.
 - a) Geotechnical Review
 - b) Contaminated land Assessment
 - c) Traffic Impact Assessment
 - d) Infrastructure Servicing Report
 - e) Master Plan including layout,
 - f) and Urban Design considerations, including MDH in the greenfield setting.
17. These reports have all been peer reviewed, Council staff are comfortable with the content and recommendation within each technical report, with appropriate areas of Council happy to proceed with the variation at this stage.
18. Key elements of the technical reports will be used to inform the drafting of both policy provisions and Section 32 reports. These technical reports and peer review findings will be made available for both the 'consultative' and later 'notification' packages.

Assessment/Analysis

19. The proposed 'variation' will assist to address both the short and longer-term residential shortfalls identified in Council's 'Housing and Business Assessment 2022 (HBA)', with a potential yield of 200 residential dwellings.
20. The variation implements the intensification and capacity requirements (Policies 1, 2 and 5) of the National Policy Statement on Urban Development 2020 (NPSUD).
21. The variation will be prepared in accordance with Schedule 1 of the RMA. The development of a 'Notification' package will follow once engagement and consultation has been completed, this package will be brought back to Council for consideration at a future date.
22. Kerepi Ltd and Council have expressed a collectively desire to engage with tangata whenua iwi on both variations, this will occur once approval from Council has been received.
23. Adjoining landowners will be notified of the impending rezoning proposal, and in due course consulted. Other parties may be identified as this variation progresses.
24. The results of consultation will inform the Section 32 evaluation Council is required to undertake.

Attachment

Attachment 1 - Site Plan

page [16]

Author	Jamie Sigmund, Strategic Planner – Implementation and Review
Authoriser	Pere Hawes, Manager Environmental Policy

Site Plan



7. Variation to the Proposed Marlborough Environment Plan, Urban Residential Four ‘Greenfields’

(Clr Hope) (Report prepared by Jamie Sigmund)

M100-11-20

Purpose of Report

1. To approve the preparation and consultation for a variation to the proposed Marlborough Environment Plan (PMEP) to include new plan provisions, policy, and accompanying zone rules, considering appropriate Medium Density Housing within the ‘Greenfields’ situation.

Executive Summary

2. Approval is sought to proceed with the preparation of a variation to include a new planning framework that considers ‘Medium Density Housing’, referred to as Urban Residential Four ‘Greenfields’. This will include, new provisions, policy, and accompanying zone rule framework.
3. The approval allows the initiation of a process but does not represent the approval of the variation.
4. The preparation of the variation will involve consultation with relevant parties, including Marlborough’s, tangata whenua iwi, Marlborough residents and appropriate ministers of the crown who may be affected.
5. Following consultation an evaluation report pursuant to Section 32 of the RMA will be prepared and that document along with the final version of the proposed variation will be brought back to the Environment and Planning Committee for approval to progress to public notification in due course.

RECOMMENDATION

That Council approve the preparation of a variation to the proposed Marlborough Environment Plan, ‘Urban Residential Four’ (UR4), to include new plan provisions, to manage ‘Medium Density Housing’ within the ‘Greenfields’ situation.

Background/Context

6. It is proposed that this new zone ‘UR4’ will be a new ‘variation’ to PMEP, with an appropriate planning response considering ‘Medium Density Housing’ within a ‘Greenfields’ setting.
7. ‘Greenfields’ is land development in previously undeveloped, rural areas. The development can be of any variety of land use i.e., residential, commercial, industrial, or infrastructural. It is the previous state of the land that determines whether a new development is a greenfield development.
8. Several drivers exist for the consideration of this variation, including.
 - a) Feedback from the wider community that existing development is not currently encouraging intensification in an appropriate form, and to the desired degree.
 - b) Several resource consents have challenged the status quo, particularly around urban design, and form, particularly a lack of ‘plan’ guidance, with developers struggling with the lack of plan enablement when the focus turns to multi-unit integrated development and increasing residential intensification.
 - c) An approach has been made to Council to consider a rezoning proposal where the applicant / owner for the site has asked Council to consider ‘Medium Density Housing’ for a portion of the rezoning site (Kerepi Variation).
 - d) This proposed variation work responds to policies from the National Policy Statement on Urban Development 2020 (NPSUD, Policies 1, 2 and 5) considering the future implications of intensification, growth.

- e) Lastly NPSUD capacity requirements, where monitoring has demonstrated a shortage in the longer term of 906 dwellings, with recent reports from both the Housing and Business Assessment (HBA) 2022, and NPSUD Annual Monitoring 2021-22 indicating a future need exists.
- 9. “Medium Density Housing (MDH) is residential development with an average lot size smaller than the existing Urban Residential One minimum lot size of 290m² and lot widths narrower than the Urban Residential 1 zone minimum lot width of 14m. MDH limited to single-and double-storey buildings.
- 10. Neither the Operative ‘Wairau Awatere Plan’ or PMP provision manage the density of development that is proposed by ‘Medium Density Housing’.
- 11. Given the existing policy and regulatory vacuum, Council staff have identified solution to a greenfield response by proposing the creation of a bespoke new zone. This would apply where residential greenfield development is zoned to occur.
- 12. Council staff have considered the applicability of developing a fit for purpose greenfield zone, exploring the potential of reusing the zone elsewhere should it be required.

Assessment/Analysis

- 13. In considering the development of provision to manage ‘MDH’ through a proposed new zone ‘UR4’, Council can enable more housing choice and opportunity on the periphery of Blenheim that are near services, amenities, and places of employment.
- 14. The variation implements the intensification and capacity requirements (Policies 1, 2 and 5) of the National Policy Statement on Urban Development 2020 (NPSUD). The variation has the potential to address longer term shortfalls in the provisions of dwellings as identified by the HBA 2022 (an objective of the NPSUD).
- 15. The variation will be prepared in accordance with Schedule 1 of the RMA. The development of a ‘Notification’ package will follow once engagement and consultation has been completed, this will be brought back to Council for consideration at a future date.
- 16. Marlborough’s tangata whenua iwi, through iwi authorities, and appropriate ministries will be consulted on the proposed variation.
- 17. Local architects, developers and the wider community will also be consulted on the draft planning provisions ahead of a more formal Schedule One process. This collective feedback will be essential in ensuring the appropriateness of MDH in the greenfields situation.
- 18. The results of consultation will inform the Section 32 evaluation Council is required to undertake.

Author	Jamie Sigmund, Strategic Planner (Implementation & Review)
Authoriser	Pere Hawes, Manager Environmental Policy

8. Resource Management (Freshwater Farm Plans) Regulations 2023 – Overview, timings, and implications for Council

(The Chair) (Report prepared by Sarah Pearson, Matt Oliver and Nic Dann)

N100-001-04-01

Purpose of Report

1. To provide an overview of the Resource Management (Freshwater Farm Plans) Regulations 2023 (Regulations).
2. Highlight the implementation requirements on Council and the departmental responsibilities for their delivery, including timelines.
3. Seek Committee approval of the roll out order and progression of drafting an Order in Council in preparation for the request from the Minister.

Executive Summary

4. The Resource Management (Freshwater Farm Plans) Regulations have been enacted and require farm operators in the region who meet the required thresholds to produce freshwater farm plans within eighteen months of the region being 'switched on'.
5. While the responsibility lies with farm operators to produce Freshwater Farm Plans (FWFPs), there are significant requirements on Council within the system, these relate to the provision of information, certifier and auditor training, compliance, monitoring and enforcement, and data collection, storage and ongoing updating of knowledge and information.
6. It is staff's current understanding that the Marlborough region will be required to start 'switching on' catchments from mid-2024. Analysis of Council's property records shows there is potentially 1700 FWFP required in Marlborough. It is proposed that catchments will be progressively 'switched on' across the region with all catchments required to be on by the end of 2025. Farm operators will have 18 months following their catchment's "switch-on" to submit their FWFP for certification.
7. Staff propose that catchment roll out timing is closely aligned with the freshwater planning process and the proposed Marlborough Environment Plan (PMEP) variation to implement the National Policy Statement for Freshwater Management 2020 which is required to be notified by the end of December 2024. The catchment roll out order also reflects the known risks to freshwater, combined with current work programmes and appropriate information availability and will focus initially on the degraded and at-risk of degradation catchments identified in the pMEP.

RECOMMENDATIONS

1. That the information be received.
2. That the Committee approve the proposed roll out order and progression with drafting an Order in Council in preparation for the request from the Minister.

Background/Context

8. On the 6th of June 2023, under Part 9A of the Resource Management Act (RMA), the Government released the Resource Management (Freshwater Farm Plans) Regulations 2023 (the Regulations). These form another key part of the Government's 2020 Essential Freshwater Package which aims to;
 - Stop further decline to the health of our freshwater.
 - Start making immediate improvements to water quality.
 - Reverse past damage.
 - Bring our waterways and ecosystems to a healthy state within a generation.

9. The central concept of Essential Freshwater is Te Mana o te Wai (TMOTW) – the fundamental importance of water which recognises that protecting the health of the freshwater protects the health and well-being of the wider environment.
10. TMOTW prioritises the health and wellbeing of freshwater and freshwater ecosystems, then the health needs of people, thirdly the ability of people and communities to provide for their social, economic and cultural well-being, now and in the future. It is relevant to all freshwater management.
11. Freshwater farm plans are intended to work in combination with the Essential Freshwater package (Appendix A – Supporting figures – Figure 1), which includes:
 - the National Policy Statement for Freshwater Management 2020 (NPSFM).
 - the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-Fw).
 - the Resource Management (Stock Exclusion) Regulations 2020.
12. FWFP are seen by the Ministry for the Environment (MfE) as a practical way for farmers and growers to identify, manage and reduce the impact of farming on the freshwater environment. Over time, FWFP are expected to become a key tool for farmers and growers to manage their freshwater impacts and regulatory obligations. They will also help farmers to understand and apply the concept of TMOTW in the context of their farming operation, and to ensure their farming practices contribute to restoring the health of our waterways.
13. Freshwater Farm plans will be:
 - a farm planning process that puts the health of the whenua (land) and wai (water) at the centre of farm operator’s decision-making.
 - a way to plan for all on-farm freshwater risk management practices, including actions to meet existing regulatory requirements, including council rules.
 - tailored to a farm’s unique set of circumstances, based on the local catchment, farm landscape and climate, and farming system.
 - a record of the practical steps being taking now and into the future to improve freshwater quality in the farm’s local catchment.
14. The freshwater farm plan system will be rolled out across the country region by region. Within a region, each regional council will also determine its catchments rollout order. This may mean that sub-regions/catchments will be ‘switched on’ at different times. Once a catchment within a region is ‘switched on’ by the regional council, the farm operator will have 18 months to submit their FWFP for certification.
15. The first regions to be rolled out nationally are Waikato and Southland where catchments will be ‘switched on’ from 1 August 2023. All regions must be switched on by the end of 2025.
16. It is staff’s current understanding that the Marlborough region will be required to start switching on catchments from mid-2024 and have until the end of 2025 to turn on all our catchments.

The Freshwater Farm Plan System

17. Multiple parties are involved in the implementation of the freshwater farm plan system including councils, tangata whenua, farm operators, independent certifiers and auditors and farm advisors (See Appendix A - Supporting figures – Figure 2 & Figure 3).
18. The process has six main parts;
 - a) Assessing if a farm plan is needed and understanding the requirements.
 - b) Developing a farm plan which takes into account the farm’s catchment context, challenges and values, identifies risks to freshwater and includes the development of an action plan to mitigate those risks.
 - c) Having the farm plan certified by an independent certifier.

- d) Farm operator then implements the action plan.
 - e) After 12 months, the farm is independently audited to assess if actions have been undertaken – subsequent audit frequency is based on audit grade. Audit grade is based primarily on completion of mitigations from the FWFP action plan.
 - f) Re-certify farm plan – every 5 years or when land use or farm system changes.
19. Notable timescales within the Regulations include.
- Once a catchment has been ‘switched on’ by the Council the farm operator has 18 months to develop a FWFP and appoint a certifier.
 - The farm operator must implement the actions specified in the action plan within the timeframes required in the action plan.
 - A farm operator has 12 months after their farm plan is certified to arrange for an auditor to audit the farm for compliance with the plan.
 - A successful A-grade audit allows a 3-year re-audit time frame. Lower grades receive shorter re-audit timeframes.
 - Farm operators must amend and submit the plan for re certification no later than 5 years since the last certification or within 12 months of any significant changes to the farm system.

Who Needs a FWFP, what must they include and what is the process?

20. A farm must have a freshwater farm plan if it has:
- 20 or more hectares in arable or pastoral land use, or
 - 5 or more hectares in horticultural land use, or
 - 20 or more hectares in mixed use (of any two or more of the above).
21. Relevant to Marlborough, horticultural land use includes viticulture.
22. The farm operator, the person with the ultimate responsibility for the operation of the farm, is responsible for ensuring the farm has a certified plan, the plan is complied with, actions and mitigations are implemented within timeframes, the plan is audited and recertified in the prescribed timescales and remains fit for purpose.
23. The process a farm operator will need to go through for developing a freshwater farm plan involves three main steps (See Appendix A - Supporting figures – Figure 4);
- a) Identifying risks to freshwater from the farm’s activities within their specific catchment context, challenges and values (CCCV).
 - b) Working out actions to manage and mitigate those risk.
 - c) Putting together an action plan with timeframes for implementation.
24. Once developed, the farm operator must engage a certifier to certify if the plan complies with the Regulations requirements.
25. Subsequently the farmer operator will need to engage a farm auditor to assess whether actions in the plan have been implemented within the required time frames.
26. The costs of developing FWFPs, certification and auditing lie with the farm operator.

What are the requirements on Council?

27. Broadly, regional councils have a range of regulatory roles in the system to make it successful:
- Providing catchment challenges, context, and values (CCCV) information and documentation.
 - Engaging with the rural community to let them know how the FWFP system will be implemented in their region.

- Continuing to work with iwi/hapū/Māori landowners through the regional freshwater planning process, and work together on aspects of CCCV and certifier/auditor training.
- Developing regional-specific training for certifiers and auditors as per the guidance.
- Appointing certifiers and auditors as per the guidance and support of the national processes being established with AsureQuality. First certifier to be appointed within 3 months of region being “switched on”.
- Keeping records of certified FWFPs and audits of FWFPs undertaken using the Integrated National Farm Data Platform (INFDP).
- Monitor & enforce compliance of farm operators with the FWFP system.
- Update CCCV information on an on-going basis as further information is provided through the FWFP system and other council process.

28. In addition to the regulatory roles for Council, several non-regulatory services are available within the existing Catchment Care programme which will assist landowners with the FWFP system. These include:

- Catchment condition surveys. These can pre-identify many freshwater risks ahead of preparation of FWFPs and can provide a level of certainty that farm operators are adequately identifying sources of water quality problems. Data from catchment condition surveys will be provided on request to the farm operator.
- Catchment prioritisation: assistance to correctly distinguish between regulatory, catchment and supplementary actions.
- Mitigation information: assistance to identify appropriate mitigation methods.
- Implementation funding: Where catchment incentive funding already exists such as in the Catchment Care or Te Hoiere Project catchments.

29. The roll-out of FWFP in our region will benefit from multiple in-council teams working together including but not limited to land managers, land and freshwater science, policy, consents, compliance, and communications.

Environmental Science and Monitoring	IT	Policy	Communications	Consents & Compliance
Freshwater and land management SOE information.	Providing GIS assistance for CCCV.	Linkage with the NPSFM freshwater planning process.	Assistance with FWFP system cons to farm operators.	Regional regulatory training material for certifier appointment.
Input into CCCV.	Storing and updating spatial data.	Engaging with tanagta whenua.	Website pages information and ongoing maintenance.	Regulatory and monitoring information and engagement with Industry and Farm operators.
Catchment care programs linking with farm operators.	Website pages development.	Input into CCCV.		Resource consent information for NES-FW and regulatory actions under FWFP.

30. Interaction with Māori and iwi is specifically required under the legislation to address matters of importance to iwi. Staff are currently in discussions with iwi on how best to undertake this work in an efficient manner utilising linkages to the freshwater planning process.

31. MfE has developed and is continuing to develop guidance, available through their website, to help with the implementation of freshwater farm plans. The guidance is aimed to help councils, tangata whenua, farm operators and advisors understand how the freshwater farm plan system works and what they need to do. Support is also being provided to councils through Te Uru Kaihika – Regional and Unitary Councils Aotearoa.

Marlborough Proposed Roll Out

32. A process for the rollout of FWFPs in Marlborough is proposed below for committee consideration (See Appendix A - Supporting figures – Figure 5). This process has been carefully thought through to

closely align with the freshwater planning process and the proposed Marlborough Environment Plan (PMEP) variation to implement the National Policy Statement for Freshwater Management which is required to be notified by the end of December 2024.

33. Consideration has also been given to rolling out FWFPs firstly into catchments already identified as having water quality issues according to Council State of the Environment (SoE) monitoring. These are identified in Chapter 15 of the PMEP as degraded or at-risk of degradation.
34. Finally, consideration has been given to the capacity of Council and Marlborough’s rural professionals to provide sufficient farm plan development, certifying and auditing. There is currently no capacity for this style of farm planning in the province. This means there is highly likely to be a lack of available workforce. The rollout process has been developed to allow time for Council with engagement with iwi to adequately develop the certifier and auditor training and for capacity development and training to occur in the private sector.
35. Catchment challenges, context and values information will be available well before each catchment is switched on.
36. The rollout process is proposed to be:

Switch on Date	Catchment
1 July 2024	Are Are Creek (reporting zone within Wairau FMU). A single trial catchment to test the system and identify issues.
31 Dec 2024	Notification of variation to pMEEP to implement the requirements of the NPSFM 2020
1 January 2025	pMEEP Chapter 15 degraded or at-risk of degradation waterbodies. This includes
	- Koromiko/Tuamarina River
	- Te Hoiere/Pelorus River and tributaries
	- Linkwater Streams
	- Mill Creek
	- Flaxborne River
	- Taylor River
	- Omaka River
	- Ōpaoa River
	- Kenepuru River
- Spring Creek	
31 December 2025	Switch on remainder of Province

Number of FWFPs required in Marlborough.

37. Analysis of Council’s property records shows there is potentially 1700 FWFP required in Marlborough, however this does not account for land management arrangements such as leases, contract management and as such it is likely that this figure is an overestimate.
38. The relative numbers of properties (council counts) for each catchment noted in the rollout are:

Catchment	Vineyard / Horticulture	Pastoral farms
Are Are Creek	12	8
Koromiko/Tuamarina River	1	15
Te Hoiere/Pelorus River and Linkwater Streams	0	113

Catchment	Vineyard / Horticulture	Pastoral farms
Flaxborne River	7	38
Mill Creek	22	28
Taylor River	109	24
Omaka River	14	10
Ōpaoa River	56	7
Kenepuru River	0	3
Spring Creek	45	0
Rest of Province – Total	703	502
- Awatere	117	99
- Clarence	0	5
- East Coast	40	95
- Marlborough Sounds	1	82
- Wairau	545	221
Total	969	747

39. Industry approved Farm Plans are permitted to be used as FWFP provided they meet the standards set in the FWFP regulations. It is Council's understanding that Fonterra and Sustainable Winegrowing will align their plans to meet the regulations. Fonterra are expected to deliver a full FWFP service (including certification and auditing) to their farmers with SWNZ providing development assistance without certification or auditing. These organisations should account for approx. 900 of Marlborough FWFP. The majority of the FWFP outstanding will be sheep and beef farms.

Certifier and Auditor accreditation and training

40. Council will soon be offered a contract with AsureQuality who is leading the development of the certification and auditing process under contract to Ministry for the Environment.
41. The Council / AsureQuality contract will cover delivery of training to prospective certifiers and Auditors.
42. As part of this process, Council will need to develop regional training material to ensure that the certifier and auditor workforce have a good understanding of the regional and local catchment context and regional plans. Council is required by the regulations to engage with tangata whenua in development and delivery of this training material.
43. Once a prospective certifier/ auditor has received the regional training, they can apply to be accredited to provide FWFP services in Marlborough. Council retains the right to approve or discontinue accreditation and can request performance reviews from accredited providers.
44. Costs for this work will be covered by MfE for approximately 3 years upon which it is expected that the training costs will be covered by accreditation fees.

FWFP data receipt and handling

45. Part of Council's role is to receive certification reports, action plans and audit grades.
46. Compliance with the FWFP regulations will become part of the Compliance and Monitoring sections responsibility and is expected to create additional workload.
47. To assist councils in meeting information management requirements under the FWFP regulations a new Integrated National Farm Data Platform (INFDP) is proposed. Costs for the INFDP are yet to be accurately quantified but much of the initial cost is expected to be borne by Central Government.

48. Ahead of the completion of the INFDP, an interim data platform is being prepared. Known as “The Bridge” it is likely that Council will have to engage with this system between mid to end of 2024 ahead of the completion of the INFDP.
49. Council can also request the full FWFP should it wish. These requests will come with a significant data burden but contain vital information such as location of mitigations detailed on action plans. It is suggested that once the FWFP system is in place, requests for FWFP as geospatial files will become standard across councils nationally. This spatial data will be important for councils long-term to refine CCCV. Requesting the FWFP’s will also allow the Council to understand the actions that are required to be undertaken on each property and allow our Catchment Care Advisors to work with landowners to assist them in completing these actions through support and access to information.
50. Several FWFP mapping providers are currently developing online FWFP mapping platforms. It is expected that many farm operators will adopt use of these and this will simplify the data handling. Council will make available relevant spatial data layers to help these providers handle CCCV requirements.

Next Steps

51. Staff will be developing an implementation plan including an assessment of resourcing requirements.
52. In the meantime, a series of meetings with iwi, catchment groups, industry groups along with public meetings to inform stakeholders on the FWFP requirements are anticipated. Initial meetings in the later part of this year and early next year will focus on general information for industry and the public, and engagement with iwi more specifically on CCCV and certifier/auditor training requirements. From early 2024 the focus will shift to more focused meetings within catchments due for rollout in 2024 and early 2025.
53. Website communication is currently being developed along with updated written fact sheets. These will support landowners with key information, clarify common concerns and address anticipated questions on the process and context of FWFP’s. Land Resources and Catchment Care staff will be able to provide additional communication directly to landowners to ensure they are able to access key information.

Attachment

Attachment 1 – Supporting figures and link to Ministry for the Environment guidance documents

page [26]

Author	Sarah Pearson, Strategic Planner and Matt Oliver Land Management Scientist
Authoriser	Pere Hawes, Manager of Environmental Policy

<https://environment.govt.nz/acts-and-regulations/freshwater-implementation-guidance/freshwater-farm-plans/>

Supporting figures.

Figure 1: Overview of Essential Freshwater showing Freshwater Farm Plans as a key implementation tool.

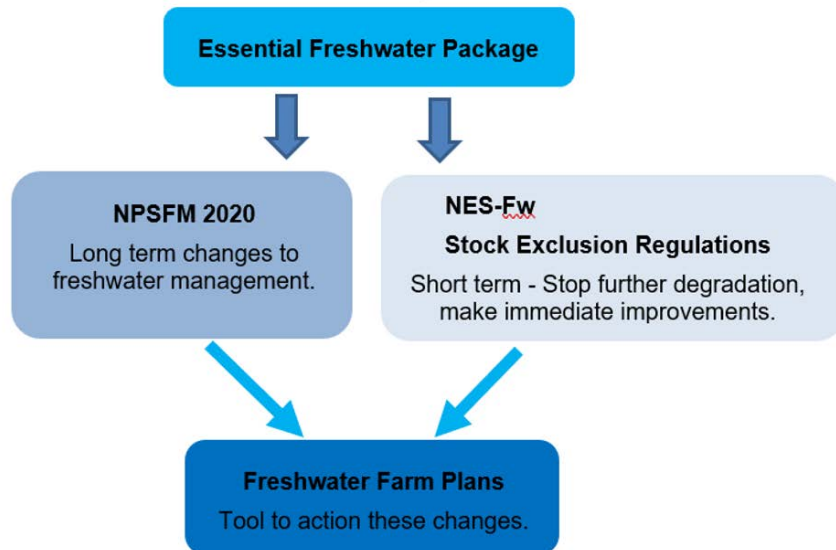


Figure 2: MfE diagram showing FWFP development, certification and auditing process. Red boxes indicate Council involvement. Red arrow indicates the re-certification feedback loop. Red circle notes the audit grade step that determines audit frequency.

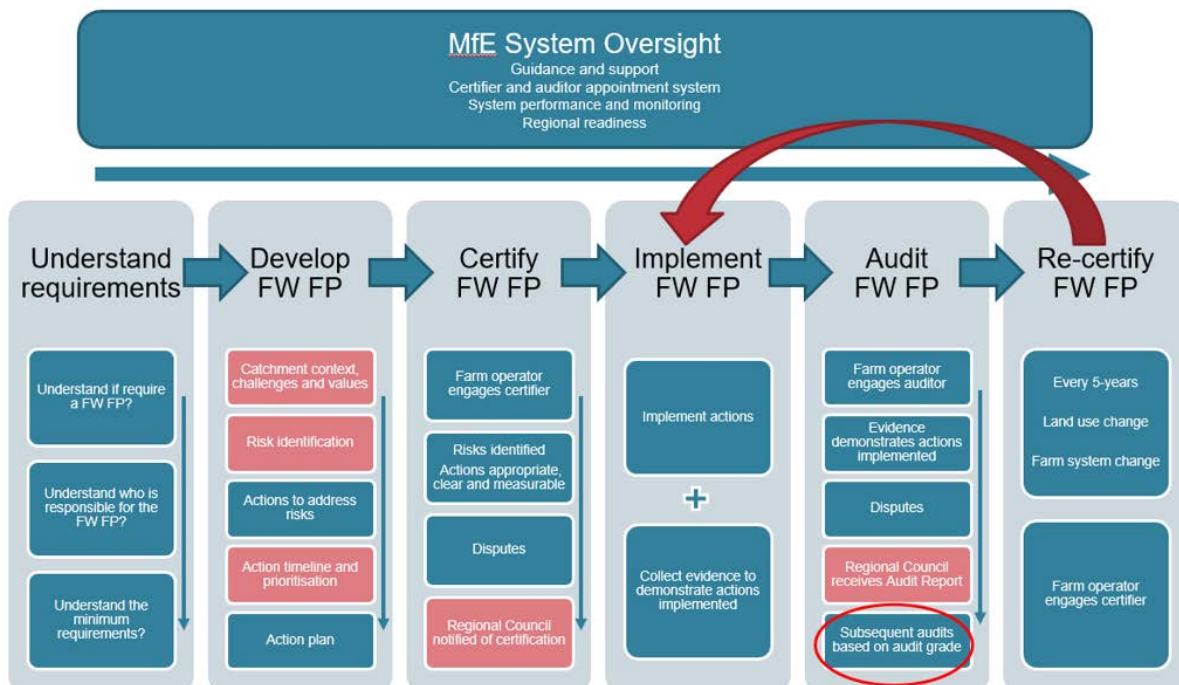


Figure 3: MfE diagram outlining the FWFP process including Council and external provider contributions.

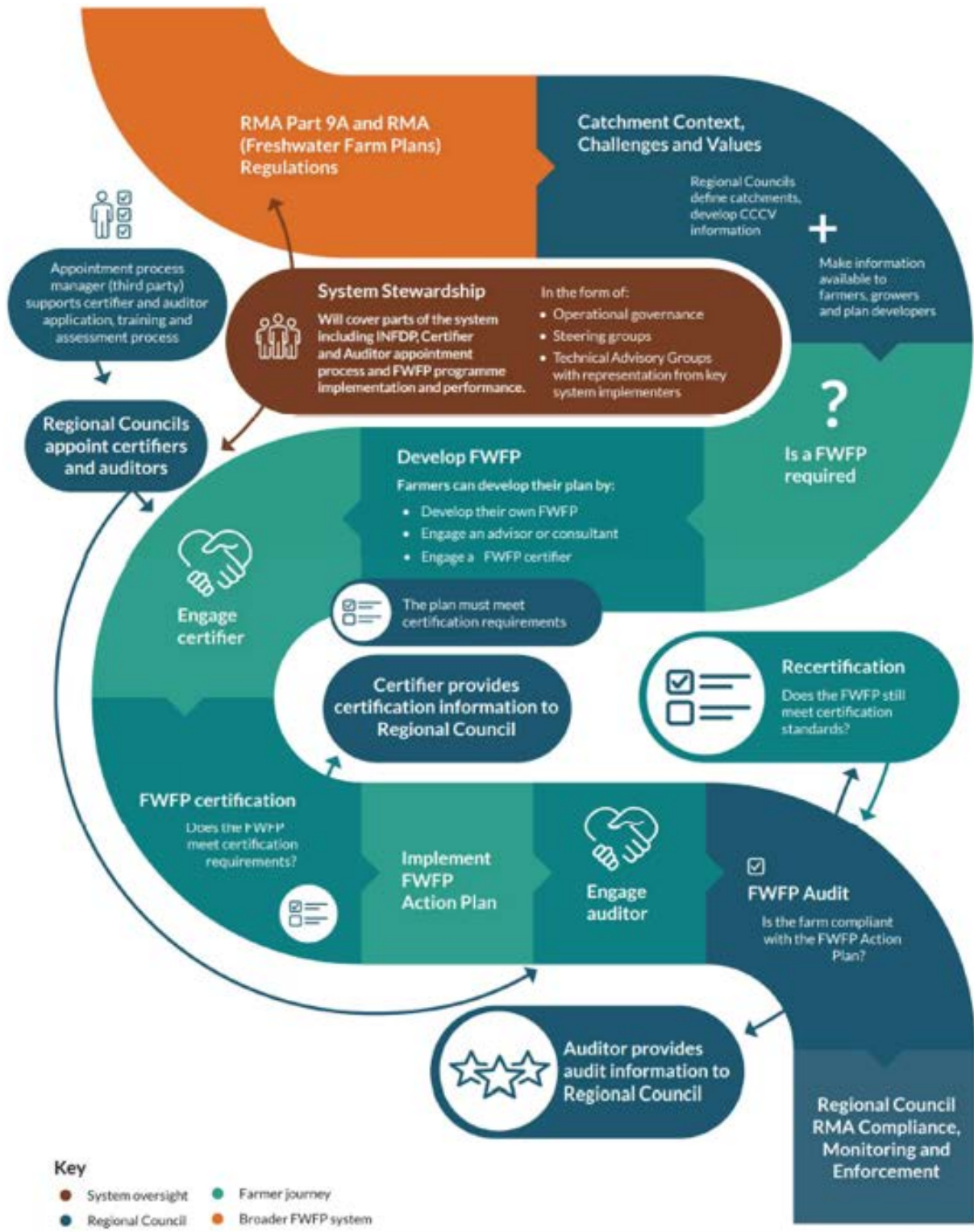


Figure 4: MfE diagram illustrating a three step process for developing a farm plan.

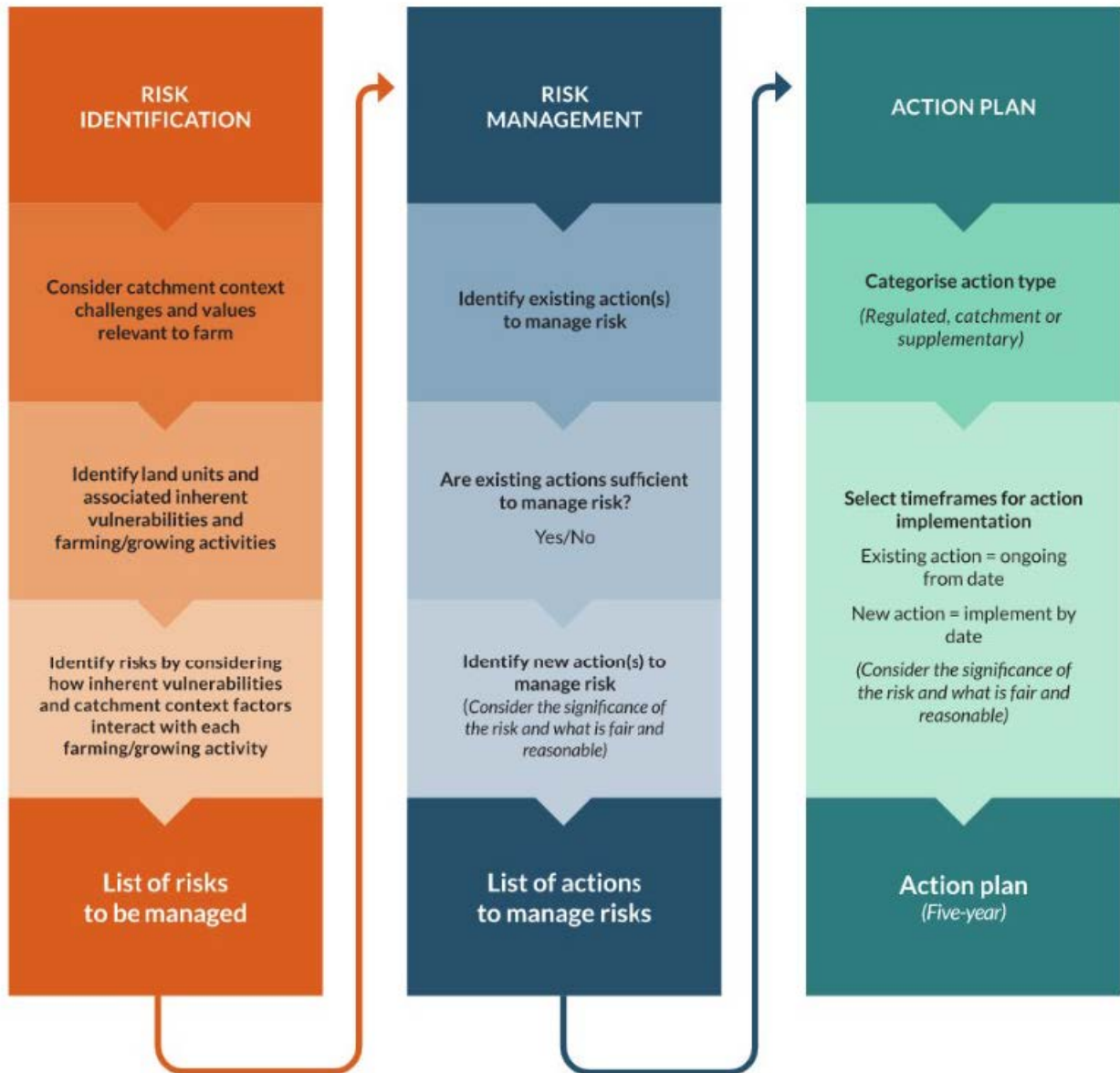
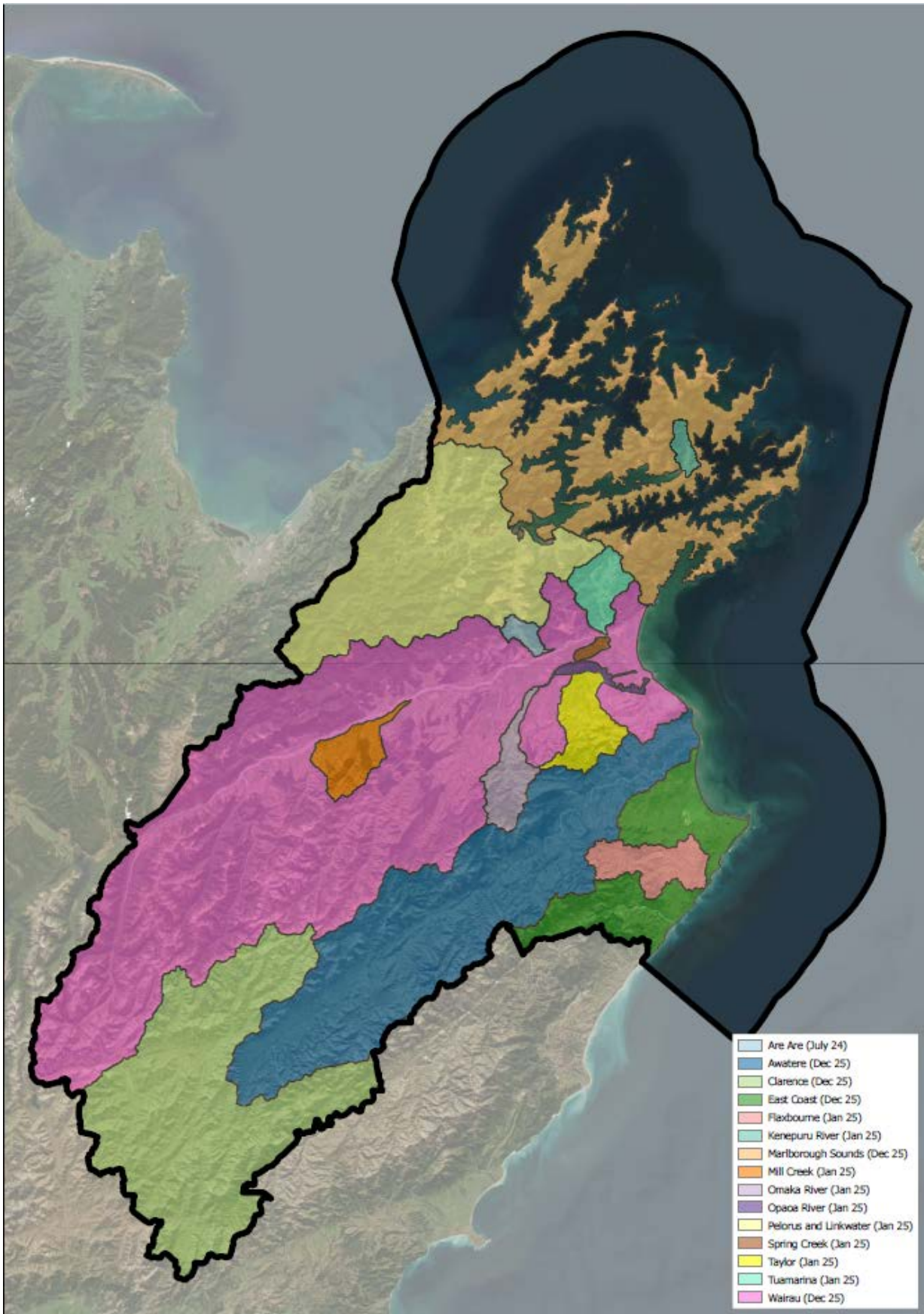


Figure 5: Map indicating locations of FMUs and proposed reporting zones.



9. Variation 2 – Hearing Panel Delegation and General Update

(The Chair) (Report prepared by Louise Walker)

M100-11-07

Purpose of Report

1. To receive an update on the progress of Variation 2: Ecologically Significant Marine Sites;
2. To appoint and to delegate authority to a panel to conduct a hearing, to hear and make determinations on submissions and further submissions and to make a decision on Variation 2;
3. To appoint a chairperson of the hearing panel.

Executive Summary

4. Council is proposing to include new Ecologically Significant Marine Sites in the proposed Marlborough Environment Plan and has been progressing this matter through a variation to the plan, the process for which is set out in Schedule 1 of the Resource Management Act 1991 (RMA).
5. Submissions on the variation were received from 33 parties. The further submission period closed on 21 July 2023 and 32 further submissions were received.
6. The next step in the process is to hold a hearing to provide an opportunity for submitters and further submitters to present evidence on the variation. After the hearing, all the evidence is to be considered and a decision made by Council on the variation.
7. As provided for in Section 34 of the Resource Management Act 1991, Council can delegate authority to a panel to conduct the hearing and make a decision on the variation.

RECOMMENDATIONS

1. **That the update on the progress for Variation 2 be received.**
2. **That Council appoint a panel consisting of Cirs Barbara Faulls and Raylene Innes, Sharon McGarry and an iwi commissioner (to be determined through consultation with iwi authorities) and to delegate authority to that panel to conduct the hearing, to hear and make determinations on submissions and further submissions and to make a decision on Variation 2.**
3. **That Cir Barbara Faulls be appointed as the Chairperson of the panel.**

Background/Context

8. The PMEP currently identifies 142 Ecologically Significant Marine Sites (ESMS) and subsites through Volume 4 (maps). Through application of provisions in Volume 1 (objectives, policies, methods) and Volume 2 (rules) the mapping of ESMSs provide for the protection of the indigenous biodiversity values at the sites. This protection is a matter of national importance as required by Section 6(c) of the Resource Management Act 1991 (RMA).
9. When an ESMS is identified, its tolerance to benthic disturbance is assessed and a category assigned. Sites that required a greater degree of protection are categorised as A or B. Through PMEP provisions, seabed disturbance activities are restricted at these sites in order to protect the indigenous biodiversity values. Less vulnerable sites fall under category C. Terrestrial sites (such as King Shag roosting sites) do not have a category as benthic disturbance restrictions are not required.
10. In order to ensure seabed disturbance doesn't impact fragile sites, a further protection measure is provided by way of a buffer area. Those sites with a buffer are listed in Appendix 27, Volume 3 of the PMEP which trigger rules requiring additional seabed activity restrictions.

11. The ESMSs currently mapped in the PMEP were identified through the 2011 publication and the survey and monitoring programme established in 2014/15 by Marlborough District Council and the Department of Conservation and meet the criteria for significance as set out in Appendix 3 of the PMEP. The programme collects data on biodiversity values at significant sites on an annual basis using a detailed range of agreed survey protocol. The results of monitoring in the form of annual monitoring reports are reported to the Environment Committee. Typically, the reports recommend changes to the boundaries of existing ESMS or the creation of new ESMS.
12. There have been 7 monitoring surveys undertaken since the adoption of the programme:
 - Year 1:2014-2015 Eastern Marlborough Sounds
 - Year 2:2015-2016 Croisilles Harbour and D'Urville Island
 - Year 3: 2016-2017 Croisilles to Waitui Bay, outer Sounds
 - Year 4:2017-2018 Central Pelorus Sound
 - Year 5:.....2018-2019 Pelorus, Tory Channel, and Catherine Cove
 - Year 6:2019-2020 Queen Charlotte Sound, Tory Channel and Port Underwood
 - Year 7:.....2020-2021 Port Underwood, Queen Charlotte Sound and Pelorus Sound
13. The year 1 results were incorporated into the notified version of the PMEP. With the inclusion of the year 2 results being sought through a Council submission to the plan process. The PMEP decision was released on 21 February 2020 confirming the year 1 and 2 survey sites, with some amendments.
14. The boundary adjustments, category changes and new sites and subsites that form the basis of this ESMS variation have been identified through the survey and monitoring undertaken between 2016 and 2021 (years 3 to 7) by Davidson Environmental Limited and recommended by an Expert Panel after reviewing the survey findings.
15. Wildlife Management International issued a report titled *Population assessment during the breeding season of King Shag in the Marlborough Sounds, February 2020*. This report identified three sites that were not referenced in the ESMS programme as significant sites. Council's Environmental Scientist, Oliver Wade, has recommended the addition of these king shag roosting sites through the variation.
16. The key aspect of the variation being proposed are:
 - (a) Adjustments to the spatial boundaries of approximately 43 ecologically significant marine sites and sub-sites currently identified in the PMEP;
 - (b) Amendment to the category or buffer on 33 existing sites;
 - (c) The inclusion of approximately 64 new ecologically significant marine sites and sub-sites;
 - (d) A category change to 1 existing site;
 - (e) A buffer change to 1 existing site.
17. To commence this variation process, approval was sought from the Environment Committee at the 15 June 2022 meeting. Approval was granted and ratified at Full Council.
18. Schedule 1 of the RMA sets out the process through which a variation (when a plan is proposed) or a plan change (when a plan is operative) is to progress. As an overview of the process, Council is required to consult on the variation with iwi authorities and statutory parties, produce an evaluation report under Section 32, publicly notify the variation, receive submissions, summarise submissions, publicly notify the summary, draft a Section 42A report evaluating submissions and further submissions before progressing to a hearing.
19. A Section 32 report – a report evaluating the appropriateness of options in achieving the purpose of the Resource Management Act 1991 (RMA) – has been provided and adopted by Council.

20. At the close of the submission period, on 11 April 2023, 33 parties had submitted on the variation.
21. A summary of decisions requested was publicly notified for further submissions on 22 June 2023.
22. At the completion of the further submission period, on 21 July 2023, 32 further submissions had been received on the submissions.

Assessment/Analysis

23. As mentioned earlier, Schedule 1 of the RMA sets out the process through which a variation is to progress. The next stage in the process for Variation 2 is to hold a hearing for submitters and further submitters to present evidence in support of their submission or further submission on the variation and to provide an opportunity for a hearing panel to ask questions of clarification. A hearing panel will then make determinations on the submissions and further submissions lodged with Council and the additional evidence received through the hearing process.
24. The most efficient and effective mechanism to complete the above is to delegate authority to a hearing panel to conduct a hearing and to determine submissions and further submissions on the variation. The hearing panel would also be delegated the authority to make a decision on the variation.
25. It is recommended that Cirs Barbara Faulls and Raylene Innes be appointed to the Hearing Panel and Cir Faulls to chair the process. Cirs Faulls and Innes have the required Making Good Decisions accreditation to sit on the Panel. They are also Marlborough Sounds Ward Councillors – the majority of the variation relates to ESMS in the Marlborough Sounds coastal marine area.
26. In addition to Cirs Faulls and Innes, it is recommended that Sharon McGarry be appointed to the Panel. Sharon has sat as a Commissioner for several resource consents in the coastal marine area, as well as being a panel member for the recent aquaculture variations, providing her with knowledge of the ESMS programme as well as the process for inclusion of the sites in the PMEP. Sharon also holds the Making Good Decisions accreditation.
27. An iwi commissioner is recommended as the third person to sit on the panel. In order to find the correct person for this role, Marlborough’s iwi authorities will be consulted and a person recommended through a further report to the Committee. It would be desirable if the iwi commissioner was accredited under the Making Good Decisions programme.
28. At this stage the hearing is earmarked to run on the 25th and 26th of October 2023. The hearings for Variations 2 and 3 are being proposed to run consecutively, with the same hearing panel, to provide efficiencies in the processes.

Author	Louise Walker, Strategic Planner
Authoriser	Pere Hawes, Manager Environmental Policy

10. Variation 3 – Hearing Panel Delegation and General Update

(The Chair) (Report prepared by Louise Walker)

M100-11-08

Purpose of Report

1. To receive an update on the progress of Variation 3: Meretoto/Ship Cove and Motuara Island Heritage Resource;
2. To appoint and to delegate authority to a panel to conduct a hearing, to hear and make determinations on submissions and further submissions and to make a decision on Variation 3: Meretoto/Ship Cove and Motuara Island Heritage Resource;
3. To appoint a chairperson of the hearings panel.

Executive Summary

4. Council is proposing to include Meretoto/Ship Cove and the island of Motuara as a Heritage Resource in the proposed Marlborough Environment Plan and has been progressing this matter through a variation to the plan, the process for which is set out in Schedule 1 of the Resource Management Act 1991 (RMA).
5. The further submission period for this variation closed on 21 July 2023. The next step in the process is to hold a hearing to provide an opportunity for submitters and further submitters to present evidence on the variation and for that evidence to be considered and a subsequent decision on the variation made by Council.
6. As provided for in Section 34 of the Resource Management Act 1991, Council can delegate authority to a panel to conduct the hearing and make a decision on the variation.

RECOMMENDATIONS

1. **That the update on the progress for Variation 3 be received.**
2. **That Council appoint a panel consisting of Cirs Barbara Fauls and Raylene Innes, Sharon McGarry and an iwi commissioner (to be determined through consultation with iwi authorities) and to delegate authority to that panel to conduct the hearing, to hear and make determinations on submissions and further submissions and to make a decision on Variation 3.**
3. **That C/r Barbara Fauls be appointed as the Chairperson of the panel.**

Background/Context

7. Heritage New Zealand Pouhere Taonga (HNZPT) entered the Meretoto/Ship Cove and Motuara Island site into the New Zealand Heritage List/Rārangi Kōrero as a 'Historic Place Category 1' (List number 9900). The Category 1 type listing identifies sites as being of special or outstanding historical or cultural significance or value. The area is also the location of another HNZPT listing (List number 9780), identifying this site as Wahi Tupuna/Tipuna.
8. Once a site is included on the HNZPT list provisions are triggered in the PMEP to consider the site for adoption into Appendix 13: Significant Heritage Resource and Sites and Places of Significance to Marlborough's Tangata Whenua Iwi and the inclusion of the spatial extent of the site in Volume 4 – Maps. By including the site in the PMEP, the protective provisions in the plan for heritage resources would be applied. The variation does not propose to amend those existing provisions.
9. To commence this variation process, approval was sought from the Environment Committee at the 15 June 2022 meeting. Approval was granted and ratified at Full Council.
10. Schedule 1 of the RMA sets out the process through which a variation (when a plan is proposed) or a plan change (when a plan is operative) is to progress. As an overview of the process, Council is

required to consult on the variation with iwi authorities and statutory parties, produce an evaluation report under Section 32, publicly notify the variation, receive submissions, summarise submissions, publicly notify the summary, draft a Section 42A report evaluating submissions and further submissions before progressing to a hearing.

11. A Section 32 report – a report evaluating the appropriateness of options in achieving the purpose of the Resource Management Act 1991 (RMA) – has been provided and adopted by Council.
12. At the close of the submission period, on 11 April 2023, 6 parties had submitted on the variation.
13. A summary of decisions requested was publicly notified for further submissions on 22 June 2023.
14. At the completion of the further submission period on 21 July 2023, no further submissions were received.

Assessment/Analysis

15. As mentioned earlier, Schedule 1 of the RMA sets out the process through which a variation is to progress. The next stage in the process for Variation 3 is to hold a hearing for submitters and further submitters to present evidence in support of their submission or further submission on the variation and to provide an opportunity for a hearing panel to ask questions of clarification. A hearing panel will then make determinations on the submissions and further submissions lodged with Council and the additional evidence received through the hearing process.
16. The most efficient and effective mechanism to complete the above is to delegate authority to a hearing panel to conduct a hearing and to determine submissions and further submissions on the variation. The hearing panel would also be delegated the authority to make a decision on the variation.
17. It is recommended that Clrs Barbara Fauls and Raylene Innes be appointed to the Hearing Panel and Clr Fauls to chair the process. Clrs Fauls and Innes have the required Making Good Decisions accreditation to sit on the Panel. They are also Marlborough Sounds Ward Councillors – Meretoto/Ship Cove and Motuara Island are situated in outer Queen Charlotte Sound/Tōtaranui.
18. In addition to Clrs Fauls and Innes, it is recommended that Sharon McGarry be appointed to the Panel. Sharon has sat as a Commissioner for several resource consents in the coastal marine area and has a proficient knowledge of the relevant planning framework being applied here. Sharon also holds the Making Good Decisions accreditation.
19. An iwi commissioner is recommended as the third person to sit on the panel. In order to find the correct person for this role, Marlborough’s iwi authorities will be consulted and a person recommended through a further report to the Committee. It would be desirable if the iwi commissioner was accredited under the Making Good Decisions programme.
20. At this stage the hearing is earmarked to run on the afternoon of the 26th of October 2023. The hearings for Variations 2 and 3 are being proposed to run consecutively, with the same hearing panel, to provide efficiencies in the processes.

Author	Louise Walker, Strategic Planner
Authoriser	Pere Hawes, Manager Environmental Policy

11. Variation 4: Road Stopping – Decision on Variation

(The Chair) (Report prepared by Louise Walker)

M100-11-11

Purpose of Report

1. To make a decision on Variation 4: Road Stopping.

Executive Summary

2. The road stopping process under the Local Government Act (LGA) has previously been completed at the three locations that form Variation 4. Each site subject to the road stopping has been amalgamated with the adjacent, privately owned, land. As there is no underlying zoning at any of the road stopping sites, the removal of the road status through the LGA process necessitates a need to consider what zoning should be applied to suitably manage the anticipated activities at each site.
3. The variation has been through the consultation stage and an evaluation report (Section 32 Report) completed. The variation was subsequently publicly notified to provide an opportunity for submissions to be lodged.
4. No submissions were received on Variation 4 and as a result there is no requirement to hold a hearing. A decision is now needed either on the variation itself or alternatively on how the variation should be progressed.
5. A recommendation is provided to rezone the road stopping sites to reflect the proposed rezoning in the Section 32 report. In each case, the zoning of the land subject to the road stopping reflects the zoning of the land it has been amalgamated with.

RECOMMENDATION

That Council make a decision on Variation 4 to rezone the three areas of land subject to the road stopping variation to be consistent with the property to which the road stopping sections have been amalgamated. Specifically, amend the areas previously designated as roading to have the following zoning:

- * 2282 Queen Charlotte Drive – Coastal Living Zone
- * 62 Alma Street – Urban Residential 2 Zone
- * 7 Herbert Street – Industrial 1 Zone

Background/Context

6. Road stopping can occur when a section of road is no longer considered necessary for roading purposes. The road stopping process is completed pursuant to Section 342 of the Local Government Act 1974 (LGA) and Environmental Policy notified of the change once confirmed.
7. Declarations of Road Stopping were provided for the following sites:
 - 2282 Queen Charlotte Drive: Section 1 SO 488337, 0.0080ha
 - 62 Alma Street: Section 1 SO 502937, 0.0012ha
 - 7 Herbert Street: Section 1 SO 516964, 0.0039ha
8. In the PMEP roads do not have an underlying zoning and are managed through their designation status (see Appendix 14 of the PMEP for further details).
9. The road stopping process removes the road status. Without this status the designation over the land becomes irrelevant, generally due to the designation providing for activities to be undertaken by the Marlborough District Council only. The lack of appropriate zoning therefore restricts activities for a landowner on their land, which was never the intent of the LGA process, nor is it in line with the purpose of the RMA. Due to the above, the consideration for zoning to provide for an appropriate regulatory framework to apply to the land is now necessitated.

10. In each of the three road stopping locations that make up Variation 4, the land has been incorporated into the adjacent, privately owned properties. The variation process provides an opportunity to consider what zoning would be most appropriate given the specific circumstances at each location.
11. As with all variations, the process is managed in accordance with Schedule 1 of the RMA.
12. Approval was sought from the Environment Committee at the 15 June 2022 meeting to commence the variation process. Approval was granted and subsequently ratified at Full Council.
13. A Section 32 report – a summary report evaluating the most effective and efficient method of achieving the purpose of the RMA – was then drafted and consultation undertaken with iwi authorities and relevant statutory authorities. The Section 32 report records the advice received from those parties.
14. On 9 March 2023, the variation was publicly notified providing an opportunity for submissions to be lodged on the variation. Submissions closed on 11 April 2023 with no submissions having been received.

Assessment/Analysis

15. As no submissions were received on the variation, a hearing is not required.
16. However, a decision on Variation 4 is still needed and in the absence of a hearing process, Council can make a decision without the need to delegate this duty to a hearing panel. Given the size and scale of the variation content, it would be efficient for this Committee to consider and determine the outcome on the papers.
17. The Section 32 report, as drafted for the variation, is attached and identifies the reasonably practical options considered. The extent of the detail in the Section 32 report corresponds to the scale and significance of what is being sought through the variation.
18. The Section 32 report, in summary, recommends the adoption of its 'option 2'. Option 2 proposes the zoning of the small road stopping areas to be amended to reflect the zoning on the land parcels the areas have been incorporated in to. This is consistent with the purpose of the RMA (Section 5):
 - (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
 - (2) *In this Act, **sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*
 - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
 - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
 - (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*
19. In addition, the outcome promotes a common-sense approach to allow landowners to use or develop land in a manner consistent with what is intended through the provisions of the PMEP.

Option One (Recommended Option)

20. To rezone the three areas that are subject to the variation to reflect the zoning of the land which the road stopping sections have been amalgamated with. The zoning is recommended as follows:
 - 2282 Queen Charlotte Drive – Coastal Living Zone
 - 62 Alma Street – Urban Residential 2 Zone
 - 7 Herbert Street – Industrial 1 Zone

Advantages

21. Gives effect to the purpose of the RMA and ensures the PMEP provisions are consistently applied over the landowners property.

Disadvantages

22. Due to the size and scale of the variation, and the lack of submissions received, there are limited disadvantages at this late stage of the process.

Option Two

23. If the Committee were not minded to make a decision on this variation on the papers, this matter could be heard by a hearing panel (with delegated authority) to make a decision on the variation.

Advantages

24. A hearing panel can be assigned for the specific subject matter to consider the variation.

Disadvantages

25. There is very little complexity to the issues and without the additional evidence from submitters, little would be gained from pushing this matter to hearing. There would also be additional costs associated with that action.

Status Quo

26. The status quo was not provided as an option due to its inconsistency with the purpose of the RMA and the unnecessary restriction this would cause to landowners.

Attachment

Attachment 1 – Section 32 Report – Variation 4: Road Stopping

Page [38]

Author	Louise Walker, Strategic Planner
Authoriser	Pere Hawes, Manager Environmental Policy



Section 32 Report

Variation 4: Road Stopping

Proposed Marlborough Environment Plan

Report prepared by Louise Walker
to fulfil the requirements of Section 32 of the Resource Management Act 1991



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INTRODUCTION

1. A landowner may apply for a road stopping on legal unformed road which adjoins their property.
2. Section 342 Local Government Act 1974 provides for the stopping and closing of roads. Schedule 10 of the Act lists the conditions a council must comply with to undertake the road stopping. The road stopping is publicly advertised, relevant signage erected at the site and information made available for inspection at Council offices. The road stopping is reported to the Assets and Services Committee for their approval. If no objections are received then a public notice is issued declaring the road stopped and the land can be sold and in some cases amalgamated into the adjoining land.
3. Once the road designation is lifted the area is left without a specified zoning.
4. This report sets out the evaluation behind the Marlborough District Council's (the Council) decision to change the proposed Marlborough Environment Plan (the pMEP) to apply zoning to areas where road stopping has been completed.

SECTION 32 REQUIREMENTS

5. In notifying any change to the Plan, the Council has a duty under Section 32 of the Resource Management Act 1991 (RMA) to evaluate a number of matters.
6. The Section 32 process of the RMA assists in ensuring that good environmental outcomes are achieved, plan provisions are targeted at achieving the purpose of the RMA by the most appropriate methods, there is sound policy analysis to base decisions and for reassessing whether the chosen provisions are necessary and appropriate once they are in use. An evaluation under Section 32 has to be carried out before the Council publicly notifies the proposed change. A Section 32 evaluation must examine the extent to which each objective, policy, rule and method is the most efficient and effective and/or appropriate way to achieve the purpose of this Act. It must also take into account the benefits and costs of policies, rules, or other methods, and the risk of acting or not acting.

STRUCTURE OF THIS REPORT

7. This report is structured as follows.
 - Part A:** Background to the request for road stopping requests and consultation.
 - Part B:** A summary of the legislative framework, within which resource and environmental issues are currently managed.
 - Part C:** An evaluation under Section 32, as required under the RMA, of the actual changes to the Plan.

Attached: Maps identifying areas for rezoning

PART A: BACKGROUND AND CONSULTATION

Background

8. Road stopping can occur when a section of road is no longer considered necessary for that purpose. The road stopping process removes the public road status and designation status, leaving the land unzoned. The unzoned land means that there is no regulatory management of land use which could result in inappropriate activity and subsequent outcomes. It is more effective (and efficient) to have a regulatory framework apply to the land in order to provide certainty to the landowner as to what can occur on land as a permitted activity and apply management where necessary to other activities.
9. The variation process considers what zoning is most appropriate for the now unzoned land.
10. Declarations of Road Stopping, pursuant to Section 342 of the Local Government Act 1974, have been provided for the following sites:
 - 2282 Queen Charlotte Drive : Section 1 SO 488337, 0.0080ha (Attachment 1)
 - 62 Alma Street: Section 1 SO 502937, 0.0012ha (Attachment 2)
 - 7 Herbert Street: Section 1 SO 516964 , 0.0039ha (Attachment 3)
11. Maps showing the areas to be rezoned are attached as identified in brackets above.
12. The roading network forms a non-site-specific designation in the pMEP. The roading designation is listed in the pMEP under Volume 3, Appendix 14. The designation covers all unzoned land that is road reserve.
13. At all the listed sites, once the designation has been removed, it leaves the subject land unzoned. The purpose of this Section 32 report is to consider whether the land should be zoned and, if so, what zoning would be most suitable for each of these areas.

Consultation

14. The landowners were party to the road stopping process which amalgamated the section of road with their land parcel.
15. Following an assessment of the sites to be rezoned, and considering the size, location and ownership of the land it was determined that no additional consultation would be required.
16. Consultation with iwi authorities on variations 2, 3 and 4 were held concurrently. Iwi were invited to participate at two hui, the first held on 17 August 2022 and the second on 30 August 2022.
17. Letters were sent to the relevant crown ministers. None sought additional consultation on the variation prior to notification.

PART B: LEGISLATIVE FRAMEWORK

Purpose of the Resource Management Act

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

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

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

19. In achieving the purpose of sustainable management, the Council must have regard to a number of principles set out in the RMA. These include recognition and provision for a number of matters of national importance described in Section 6 of the RMA. The Council must also have particular regard to matters such as amenity and heritage values, kaitiakitanga, quality of the environment, and ecosystem values (Section 7) and take into account the principles of the Treaty of Waitangi (Section 8).
20. The RMA enables the use and development of resources as long as such use does not adversely affect the environment in a way that impacts the foreseeable needs of future generations, the life supporting capacity of ecosystems or other users or the environment. This is the concept of “sustainability” which the RMA promotes as its overriding purpose.

Marlborough District Council Responsibilities

21. The Marlborough District Council is a unitary authority that has the functions, powers and duties under the RMA of both a district council and a regional council. Its functions are set out in sections 30 and 31 of the RMA.
22. The Marlborough District Council is also the roading authority for local purpose roads.

Proposed Marlborough Environment Plan

23. The Council's unitary authority status creates an obligation to prepare a regional policy statement, coastal plan, a district plan and such other regional plans as are necessary to promote the sustainable management of natural and physical resources. Due to its unitary authority status the Council has taken the opportunity to integrate the management of the resources of all of Marlborough into one document.

24. The proposed plan was publicly notified on 19 May 2016. After the receipt of submissions and the proceeding hearing process, the Hearing Panel issued its decision on 21 February 2020. The plan is currently in the early stages of the appeal process. Based on the current plan status, any provisions that are not under appeal can be treated as operative, otherwise consideration is deferred to the operative plans. In the three instances of road stopping which this report covers, no appeals have been lodged relating to these sites or adjoining land.
25. Policy 9.1.16 of the PMP provides direction for road stopping and when it should be considered appropriate.

Policy 9.1.16 – In considering an application to stop any unformed legal road, the Marlborough District Council shall consider the following:

(a) current and future level of use, including whether the unformed legal road is: - the sole or most convenient means of access to any existing lot(s) that is public land or feature (for example, a river or the coast); or - used as a walkway or to access conservation land;

(b) opportunities for future use, including whether the unformed legal road will be needed: - to service future residential, commercial, industrial or primary production developments; or - in the future, to connect existing roads;

(c) alternative uses of the land, including its current or potential value for amenity or conservation functions, e.g. walkway, utilities corridor, esplanade strip or access way to features such as a river or the coast;

(d) whether there is alternative and practical existing public access to the same end point of the unformed legal road; and (e) whether acceptable alternative access can be provided to offset the stopping of the unformed legal road.

26. Although these matters would have been considered at the time of the road stopping request application, retrospective consideration also shows that none of the road stopping requests have frustrated the policy.
27. There is little in the way of objectives, policies or rules that specifically determine zoning of such small parcels of land other than the overriding obligation for zoning to enable activities to occur in appropriate locations.
28. Each of the road stopping locations were assessed on an individual basis before concluding that the prevailing issues were the same for each and could be addressed in one principal report.
29. The road stopping was confirmed pursuant to Section 342 of the Local Government Act 1974 the land was amalgamated with the adjacent land parcel. The unzoned pieces of land are indistinct from the adjoining land. Further, on several of the sites, structures have been erected that straddle the boundary of the amalgamated lots.

PART C: SECTION 32 EVALUATION

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

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

31. As the Section 32 is only evaluating the amendment to zoning there is no requirement to amend the objectives, policies and/or rules and therefore no assessment is offered.

Policy 4.1.1 consideration

Policy 4.1.1 Recognise the rights of resource users by only intervening in the use of land where it is justified to protect the environment.

32. Due to the minimal size and environmental impact of the areas to be rezoned, there are few provisions that can be considered relevant for assessment. However, Policy 4.1.1 does offer strong direction for the rights of resource users when protection of the environment is not justified. For the land users (and in this case landowners), intervention would be a disparate zoning of land which would limit their activity. In all three instances, there is little to no environmental justification for intervention in terms of rezoning land contrarily to the land to which it has been amalgamated, such an act could frustrate this policy.

Summary of advice from iwi authorities

33. No additional advice was received from iwi authorities.

Evaluation of Options

34. The Council considered the following three options for addressing the issue:

- Option 1: Status Quo/Do Nothing – sites remain unzoned.
- Option 2: Zoning of land consistent with adjacent/amalgamated property
 - 2282 Queen Charlotte Drive – Coastal Living Zone
 - 62 Alma Street – Urban Residential 2 Zone
 - 7 Herbert Street – Industrial 1 Zone
- Option 3: Alternative zoning options

35. The following table assesses the costs and benefits of the three options.

Option 1: Status Quo/Do Nothing.

Benefits/Advantages	Costs/Disadvantages
<ul style="list-style-type: none"> • No further work required • Economic and cultural cost to Council and the community are minimal. 	<ul style="list-style-type: none"> • The provision framework to manage activities on the unzoned land is constrained to road and rail activities. • There is therefore no planning framework applied to manage land use on the land. This could result in poor environmental outcomes if inappropriate land use occurs on the site. • Land owners would have dual zoning imposed on their property and this could give rise to inconsistent management.

Summary: Although the status quo option is the least work intensive, having unzoned land would mean Council not fulfilling its function pursuant to s30 of the RMA, to control activities to ensure they do not detract from Part II matters.

Option 2: Zoning of land consistent with adjacent property

Benefits/Advantages	Costs/Disadvantages
<ul style="list-style-type: none"> • The properties in which the land has been amalgamated would have one consistent zoning and therefore management applied. • Consideration of the zoning of the adjacent land has been recently assessed through a Schedule 1 process. • Is in alignment with the requirements of the RMA and the intention of the pMEP. • Economic and cultural cost to Council and the community are minimal. • Appropriate regulatory framework would apply to manage use of land at the site. 	<ul style="list-style-type: none"> • New zoning maps will need to be produced. • Cost of the Schedule 1 process.

Summary: To ensure ongoing management of land consistent with RMA practice providing the ability for Council to sustainably manage activities, this is the most suitable option. It also provides consistency and common sense to assist landowners to develop land in a manner consistent with MDC's planned outcomes.

Option 3: Alternative zoning options

The consideration of alternative zoning was as follows:

- 2282 Queen Charlotte Drive – Open Space Three
- 62 Alma Street – Open Space One
- 7 Herbert Street – Open Space Three

Benefits/Advantages	Costs/Disadvantages
<ul style="list-style-type: none"> • Attempts to satisfy the requirements of Section 6, Part II of the RMA through alternate means. • Economic and cultural cost to Council and the community are minimal. 	<ul style="list-style-type: none"> • The properties in which the land has been amalgamated would have two, inconsistent, zoning types applied. • None of the properties abut conservation or public access relevant zoning which would benefit the community. • Costs associated with a Schedule 1 process

Summary: In this option consideration was given to applying different zoning to the zoning of the adjacent land which could have had the potential to fulfil alternative purposes, particularly in regard to Section 6 RMA matters. For the Herbert Street and Alma Street locations there were no logical alternative options as the sites were surrounded by the same zoning as being proposed. The Queen Charlotte Drive site has an Open Space 3 zone almost adjacent to the land. However, the site was not contiguous with the zoning and little use would be gained from the inclusion as it does not offer additional access or other incentives in terms of providing for activity that would override the sites use under the Coastal Living Zone. Further, the site has an existing structure straddling the boundary and taking up close to 50% of the area therefore making the Coastal Living Zone more appropriate.

Preferred Option

36. Option 2 is considered the most effective and efficient means of achieving the purpose of the RMA. To reiterate the summary for the decision as provided above, this option is the most appropriate as it ensures ongoing management of land consistent with RMA practice providing the ability for Council to sustainably manage activities. It also provides consistency and common sense to assist land owners to develop land in a manner consistent with MDC's planned outcomes.

Effectiveness of Existing Plan Provisions

37. The incorporation of the new mapping changes do not require an assessment of the adequacy of the existing objectives and policies as these will not be impacted.
38. Changes to the pMEP, as recommended in this Section 32 would only require amendments of the maps in Volume 4 as follows:
 - (a) 2282 Queen Charlotte Drive:
 - (i) Map 74 – 1:10,000 scale
 - (ii) Map 138 – 1:40,000 scale
 - (b) 62 Alma Street:
 - (i) Map 53 – 1:5,000 scale
 - (ii) Map 158 – 1:40,000 scale
 - (c) 7 Herbert Street:
 - (i) Map 9 – 1:5,000 scale
 - (ii) Map 159 – 1:40,000 scale

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

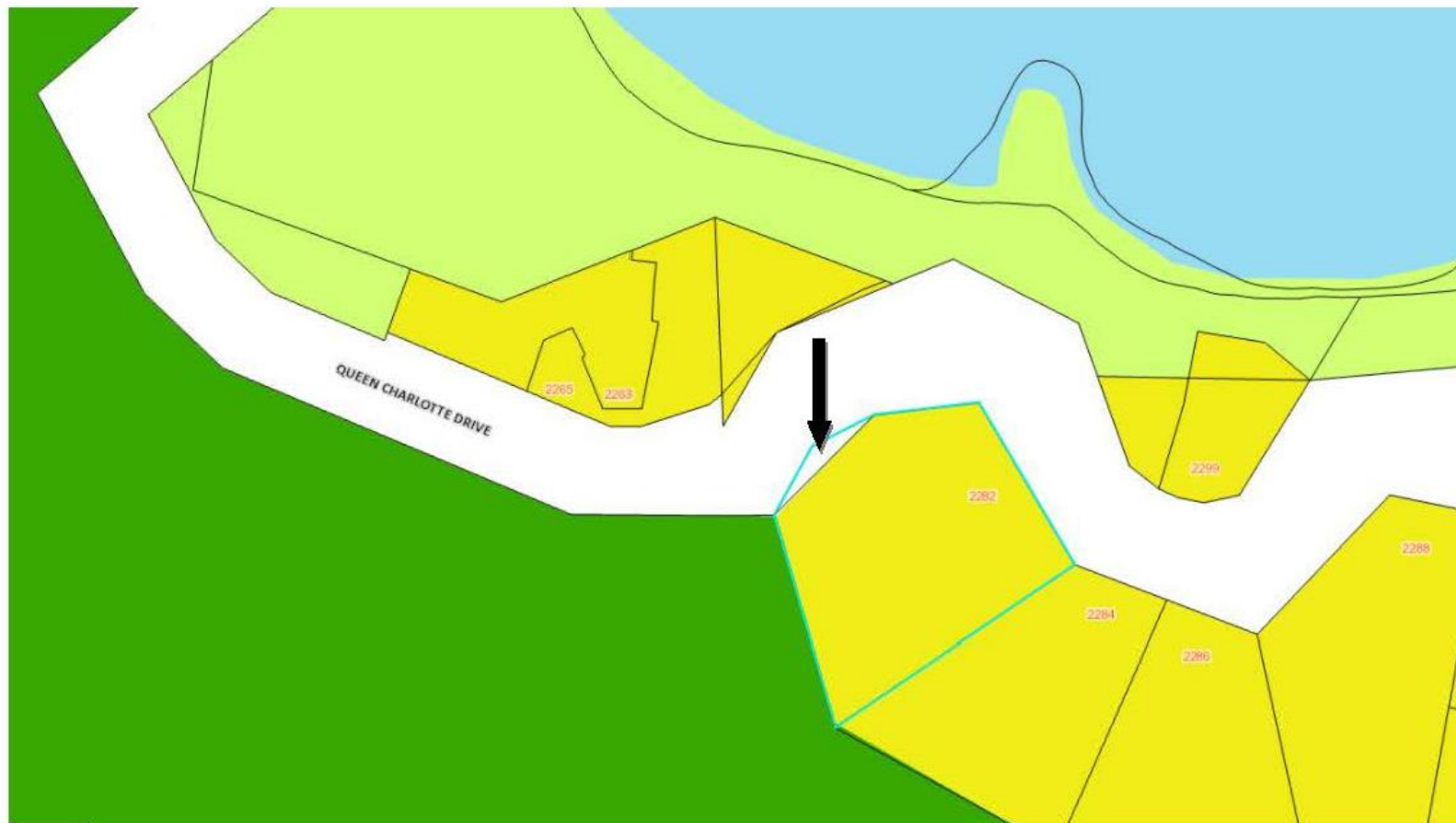
39. The RMA requires the Council to evaluate the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.
40. The Council does not consider that it is acting in the absence of uncertain or insufficient information.
41. The extent of the changes are minor which further minimises the risk.
42. The opportunity provided by undertaking a Schedule 1 process provides an opportunity for adjoining landowners to make submissions, further reducing any residual risk.

CONCLUSION

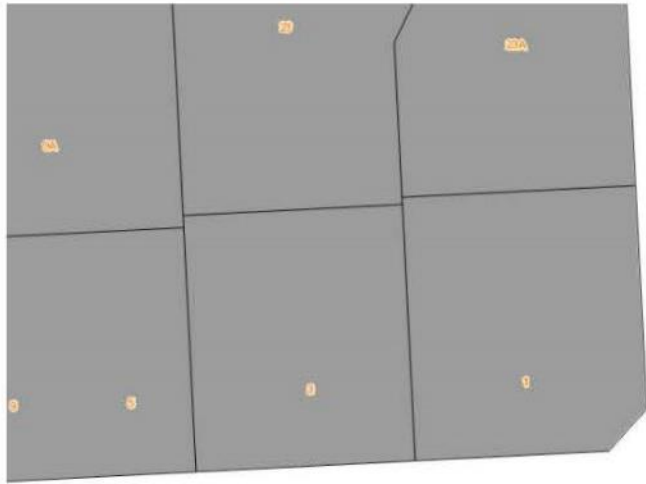
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43. Based on the assessment above, the overall conclusion is that the proposed variation better achieves the objectives of the proposed Marlborough Environment Plan than the existing zoning. It is also concluded that the benefits of the proposed variation outweigh the costs, which will be minimal.
 44. The Council considers that the process it has gone through has assisted in reaching a point where the proposed variation to the Plan will ultimately achieve better outcomes for the community.

ATTACHMENTS

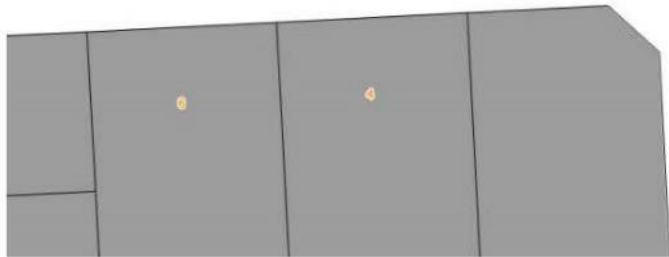
Attachment 1: 2282 Queen Charlotte Drive



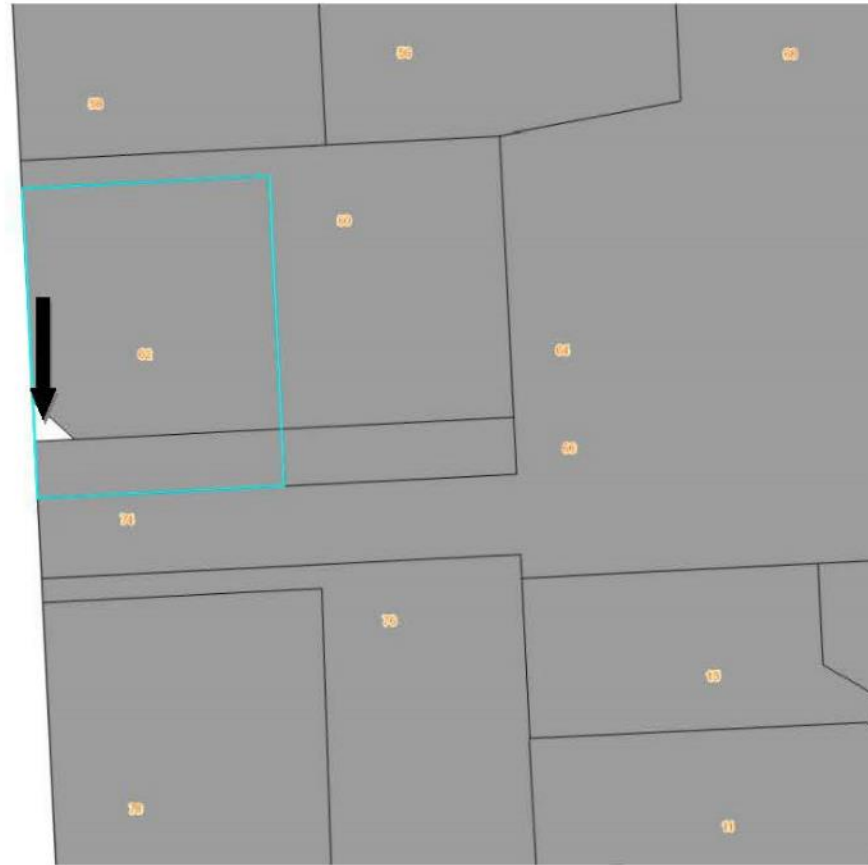
Attachment 2: 62 Alma Street



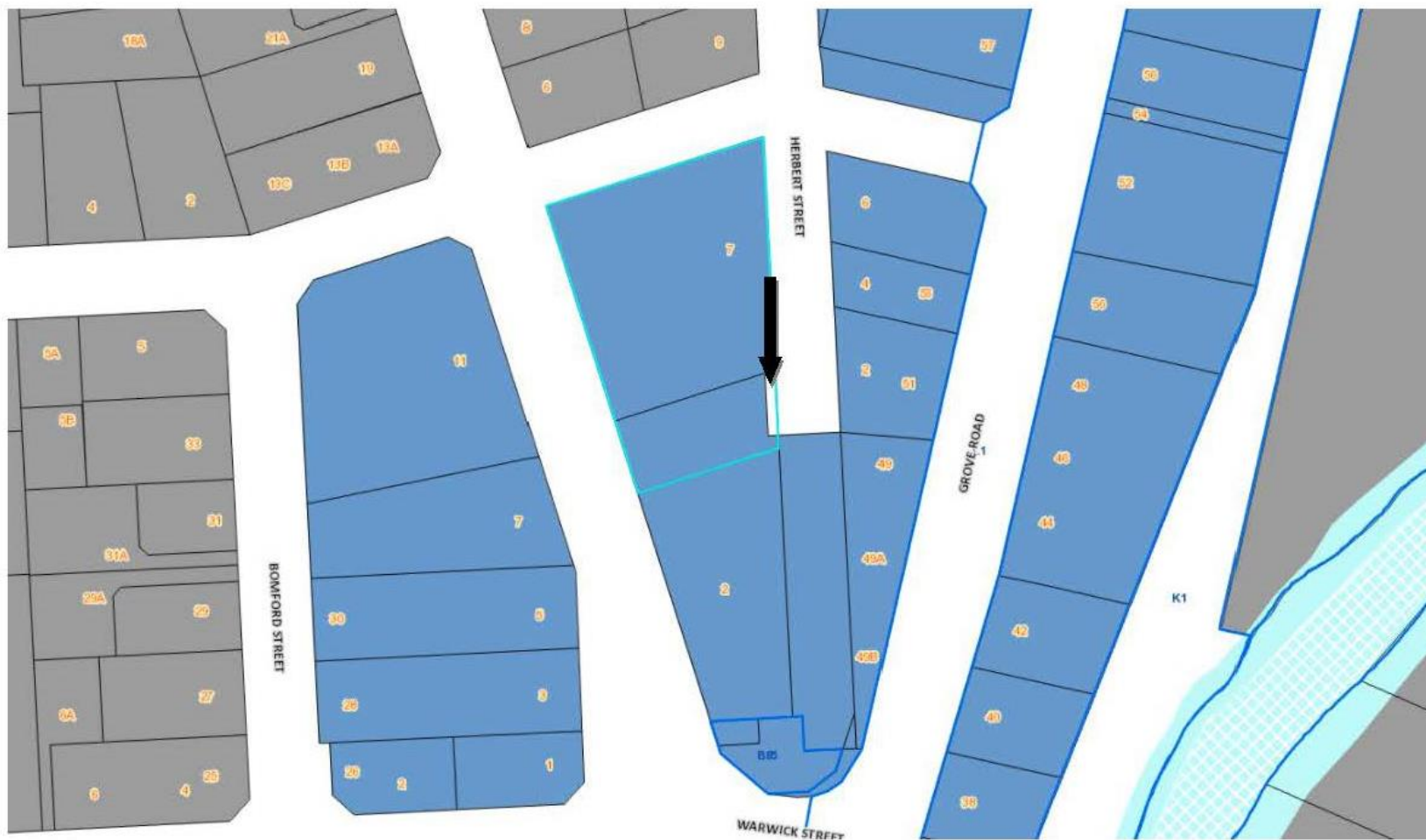
CLYDE STREET



ALMA STREET



Attachment 3: 7 Herbert Street



12. Natural and Built Environment Bill and Spatial Planning Bill

(The Chair) (Report prepared by Kim Lawson)

L150-019-R04

Purpose of Report

1. To inform the Committee of the Environment Committee's (**Committee**) report back to the House on the Natural and Built Environment Bill (**NBE Bill**) and Spatial Planning Bill (**SP Bill**).

Executive Summary

2. The Committee has recommended, by majority, that the NBE Bill and the SP Bill be passed with amendments. Importantly, Marlborough is to remain a separate region. Nelson and Tasman are to combine. The Bills are currently due to progress to their third reading and expected to be passed into law by the end of this Parliamentary term, potentially by the end of August.
3. The Committee has recommended a number of changes to the NBE Bill, including streamlining its purpose to a single purpose "to uphold te Oranga o te Taiao", prioritising environmental protection over use and development. It has also restructured the NBE Bill to "improve its flow and readability" and attempted to clarify the transition from the Resource Management Act to the new framework.
4. The Bills retain the requirement to establish Regional Planning Committees (**RPC**), a National Planning Framework (**NPF**), Regional Spatial Strategies (**RSS**) and Natural and Built Environment plans (**NBE plans**). The Bills recognise, integrate, and enshrine te Tiriti o Waitangi and te ao Māori at all levels of decision making.
5. Whether the Bills, once enacted, remain law ultimately depends on the outcome of this year's election. Council staff will continue to monitor the progress of the Bills through the House and report back to the Committee following the outcome of the election and next steps.

RECOMMENDATION

That the report be received.

Background/Context

6. On 15 November 2022, the Government introduced the NBE Bill and SP Bill to Parliament to repeal and replace the Resource Management Act 1991.
7. The Committee heard submissions on the Bills, including Council's¹, and reported back to the House on 27 June 2023. It recommended, by majority, that the NBE Bill and the SP Bill be passed with amendments. Importantly, Marlborough is to remain a separate region. Nelson and Tasman are to combine.
8. The second reading of the Bills occurred on 18 July 2023 where it was agreed to progress the Bills to the Committee of the Whole House. The Committee of the Whole House debated both the NBE Bill and SP Bill concluding on 1 and 2 August 2023 respectively. The Bills are now ready for their third reading. This is the last step before the bills get Royal Assent and become law. Final adjournment of the House before the election is expected at the end of August. It is therefore anticipated the Bills will become law this month.
9. This report is intended to outline some of the main features of the Bills, with a focus on the Bills' planning framework, as well as highlight aspects that have been amended due to the Committee's reports on the Bills to the House. However, given the breadth of the Bills, the NBE Bill alone has over

¹ [https://www.marlborough.govt.nz/repository/libraries/id:2ifzri1o01cxbymxkvwz/hierarchy/documents/your-council/meetings/2023/environment-planning-2023/Item%209-09032023-Submission by MDC on NBE Bill and SP Bill 3.2.23.pdf](https://www.marlborough.govt.nz/repository/libraries/id:2ifzri1o01cxbymxkvwz/hierarchy/documents/your-council/meetings/2023/environment-planning-2023/Item%209-09032023-Submission%20by%20MDC%20on%20NBE%20Bill%20and%20SP%20Bill%203.2.23.pdf)

900 sections and 16 schedules, this report is not intended to be a comprehensive overview. The future of the Bills is also intrinsically linked to the outcome of this years' elections, with National indicating it will repeal the Bills should it be elected.

10. Accordingly, Council staff will continue to monitor the progress of the Bills through the House and report back to this Committee following the election.

Purpose to recognise and uphold te Oranga o te Taiao

11. The Committee has amended the purpose of the NBE Bill. The intention being to ensure it is certain, clear and coherent. The single purpose is now "to uphold Te Oranga o te Taiao". This purpose must be achieved in a way that:
 - a) protects the health of the natural environment; and
 - b) subject to paragraph (a), enables the use and development of the environment in a way that promotes the well-being of both present and future generations.
12. The new purpose has strengthened environmental protection over use and development. The purpose of the SP Bill has been amended to align with the new purpose of the NBE Bill.
13. Te Oranga o te Taiao is defined in the NBE Bill to mean all of the following:
 - a) the health of the natural environment; and
 - b) the relationship between the health of the natural environment and its capacity to sustain life; and
 - c) the relationship between the health of the natural environment and the health and well-being of people and communities; and
 - d) the interconnectedness of all parts of the environment; and
 - e) the relationship between iwi and hapū and te Taiao that is based on whakapapa.
14. Subparagraph (c) is a new addition by the Committee, and the Committee has repositioned the definition from the interpretation section of the NBE Bill to the purpose section of the Bill. The use of the word "and" means all aspects of the definition are relevant, but the definition does not prioritise one aspect over another, which may make it difficult to apply if there is a conflict.
15. The NBE Bill contains "system outcomes" the purpose of which is to establish what must be achieved at the national and regional levels to ensure Te Oranga o te Taiao is met. The Committee has amended the system outcomes in an attempt to better align with this new purpose, however there will inevitably be tension between those system outcomes requiring environmental protection, and those promoting use and development. As a result, the Committee has introduced a new clause setting out how the system outcomes are to be provided for, including that the health of the natural environment and its capacity to sustain life must be protected, not all outcomes are required to be achieved in all places or at all times and in the event there is conflict, this must be identified and resolved at the highest practicable planning level.
16. Te Oranga o te Taiao is a new concept in legislation and, should it remain, will very likely be tested through litigation to resolve its interpretation. It is also uncertain how concepts in existing national policy will feed into and give effect to the new purpose, for example the requirement in the National Policy Statement for Freshwater Management (**NPS-FM**) to give effect to "te Mana o te Wai". Whether giving effect to Te Mana o Te Wai gives effect to te Oranga o te Taiao.

Greater recognition for the Treaty and te ao Māori

17. The Bills incorporate and provide greater recognition for the Treaty of Waitangi and te ao Māori concepts, including the new purpose of the Bill "te Oranga o te Taiao", tikanga, and Mātauranga Māori. The requirement to give effect to the Treaty principles has also been retained.

18. Notably, however the Treaty clause, and the procedural and information clauses in the NBE Bill, do not apply to the Courts, except when they are seeking to interpret and apply the legislation to others acting under it, or when the Environment Court is determining a plan as the primary decision maker.
19. This recognition in the Bills will ensure greater Māori involvement in the new regime, particularly in the decision-making process. In a regional context, there must be a minimum of two members appointed by a Māori appointing body to the RPC, to make decisions on the RSS and NBE plan.
20. The role and responsibility of iwi and hapū in relation to the environment must be recognised and provided for. In accordance with the decision-making principles in the NBE Bill, and in the SP Bill, iwi and hapū responsibilities in relation to te taiao:

All persons exercising powers and performing functions and duties under this Act must recognise and provide for the responsibility and mana of each iwi and hapū to protect and sustain the health and well-being of te taiao in accordance with the kawa, tikanga (including kaitiakitanga), and mātauranga in their rohe or takiwā.

21. The NPF must enable Māori iwi and hapū to be involved in monitoring of environmental limits and targets, including through the application of mātauranga Māori. For state of the environment monitoring and plan effectiveness monitoring, local authorities must provide iwi authorities and groups that represent hapū with opportunities to:
 - a) be involved in the development and implementation of mātauranga Māori, tikanga Māori, and other monitoring methods and approaches;
 - b) be involved with the development of policy and guidance on the detailed ways in which the regional monitoring and reporting strategy is to be operationalised; and
 - c) carry out the actual monitoring work where agreed with the relevant local authority.
22. The Treaty principles, te ao Māori and Māori involvement at a national, regional and local level are cornerstones of the new regime. Local authorities and iwi/hapū will be required to work in partnership to develop, implement and monitor RSS and NBE plans.

Mechanics of the new regime

23. The Bills retain the requirement to establish Regional Planning Committees (**RPC**), a National Planning Framework (**NPF**), Regional Spatial Strategies (**RSS**) and Natural and Built Environment plans (**NBE plans**).

Regional Planning Committees

24. A RPC is still required to be established for each region. The process for commencing the composition of the RPC will be on a date set by Order in Council.
25. RPCs will be independent statutory bodies (that is separate from local authorities) with wide ranging functions and powers, including:
 - a) Making and maintaining the NBE plan;
 - b) Approving or rejecting recommendations made by an Independent Hearings Panel (IHP) after it has considered submissions on the NBE plan;
 - c) Setting any environmental limits for the region that are required to be set by the NPF;
 - d) Monitoring how effectively the plan is being implemented by the local authority; and
 - e) Preparing, adopting and implementing RSS under SP Bill.
26. Essentially, the RPC, not the local authority will be the decision maker on regional and district plan matters. Council's primary role will be to implement the NBE plan; that is consenting and compliance requirements, as well as designations.

Setting up the RPC

27. Establishing the RPC in each region is likely going to be a long and complex process. Twelve months if there is agreement on the composition, longer if not.
28. The RPC must still have a minimum of six members, including two members appointed by a Māori appointing body of the region. The Minister responsible for the SP Bill must also appoint one member, in addition to the six members required, for matters under the SP Bill. There is no maximum number, but the size of the RPC must support effective decision making and efficient functioning.
29. The Committee has introduced a new clause in the NBE Bill setting out the key role of the member appointed by the Minister is to communicate to the other members of the RPC the government's strategic priorities in relation to that Spatial Planning Act. That member must ensure that central government strategic priorities are provided to the RPC in a co-ordinated way. The member can participate and vote on matters arising under SP Bill and the operational matters of the RPC only.
30. The composition of the RPC is for the local authorities and iwi/hapū to determine:
 - a) Iwi authorities and groups that represent hapū in a region must set up an iwi and hapū committee for the region.
 - b) The iwi and hapū committee must then engage with iwi and hapū and other Māori groups with interests in the region before it agrees to a composition arrangement or determine a Māori appointing body. If a Māori appointing body cannot be agreed, then there is a dispute resolution process.
 - c) The local authorities and the iwi and hapū committee in the region must either reach agreement on a composition arrangement for the RPC (being the number of members and the appointing bodies) or advise the Local Government Commission that no agreement has been reached, within 8 months. If there is agreement on composition, then four months to appoint members.
 - d) If agreement on a composition arrangement cannot be reached, then the Local Government Commission will determine.
31. With nine iwi having statutory acknowledgments within our region, the composition of the iwi and hapū committee and Māori appointing body will likely take time to enable iwi to actively consult with their members, and reach agreement. There may also be the desire for more than just two members to be appointed by the Māori appointing body to the RPC.
32. The Committee has introduced a new provision in the NBE Bill to enable an existing committee of a unitary authority to become the RPC, after the Order in Council has been made for the region. While the composition and appointment process referred to above still applies, this is a more streamlined process for unitary Council's, as opposed to other Councils.
33. There is also a new provision in the NBE Bill for secretariat arrangements specifically for unitary authorities:
 - a) Unitary authorities must employ a director of the secretariat on the direction of the RPC that has been given after consulting the CEO of the unitary authority; and
 - b) The unitary authority must provide staff in accordance with a resourcing plan that has been developed to support the RPC and enable the director to meet their responsibilities.
34. The local authority must fund and provide resources sufficient to enable the RPC and the secretariat to perform or exercise their functions, duties, and powers. The funding and resourcing of a RPC must be treated as being within the functions and duties of a local authority for the purposes of the Local Government Act. For a unitary authority, it must include the following in its annual plan or long-term plan:
 - a) forecast expenditure for the following three years and a description of the work planned for the following three years, including key activities and milestones, that is consistent with the funding agreed or determined; and

- b) provision of funding for Māori participation in the development, implementation, and monitoring of plans and RSS.
35. Essentially Council will need to fund the RPC, its secretariat, and Māori participation. This will need to be agreed and publicly set out.

National Planning Framework

36. The NPF will be the single source of national planning direction. The purpose of the NPF is to achieve the purpose of the NBE Bill, te Oranga o te Taiao, by providing:
- a) direction on the integrated management of the environment in relation to matters of national significance and national and regional consistency;
 - b) direction on the resolution of conflicts about environmental matters, including those between or among system outcomes; and
 - c) setting environmental limits.
37. The first NPF must be notified within 6 months after the NBE Bill receive Royal Assent. The Committee has confirmed it is to carry over the policy of the existing national directions made under the Resource Management Act (**RMA**), to the extent that they are compatible with the requirements of the Bill and provide direction for the development of RSSs. Notably there are now exclusions including the National Environmental Standards for Plantation Forestry and the National Planning Standards, which is not required to be carried over.
38. There is now no requirement to include environmental limits and targets in the first NPF until 2028 unless they are part of existing national direction, for example the NPS-FM.
39. The first NPF is still under development, and it is yet to be seen how the existing national direction will sit as part of the NPF, whether amendments will be made to the existing policies to better fit the purpose and principles of the NBE Bill and ensure consistency across the existing national direction. The fact that no environmental limits and targets are required in the first NPF leads to the question of how RSS and NBE plans will be crafted in the meantime, without that national direction, to effectively implement the Bills' requirements and uphold te Oranga o te Taiao.

Regional Spatial Strategy

40. The RSS is to be developed by the RPC. It will set the long-term, high level strategic direction for each region. It must give effect to the NPF to the extent that the framework directs and otherwise be consistent with it.
41. The RSS must set strategic direction for the use, development, protection, restoration and enhancement of the environment for not less than 30 years. The RSS must now also be consistent with any environmental limit or mandatory target that is set in the region's NBE plan and with any water conservation order that applies to the region.
42. The RSS must provide for strategic direction on "key matters" including:
- a) areas that require or may require protection, restoration or enhancement;
 - b) areas of cultural heritage and areas with resources that are of significance to Māori;
 - c) urban, rural and coastal development and change; and
 - d) matters relating to risks arising from natural hazards and the effect of climate change.
43. The Committee has recommended changes to the SP Bill to promote integration between Water Services Entities and RSS:
- a) The purpose of the SP Bill now requires RSS to also promote integration in the performance of functions under the Water Services Entities Act; and

- b) The Water Services Entities boards must now take RSSs into account when preparing specified statement plans and ensure that other specified plans and strategies are not inconsistent with RSSs.
44. When preparing a RSS, the RPC must now have particular regard to any statement of regional environmental outcomes or statement of community outcomes, relevant iwi/hapū planning documents and any te Oranga o te Taiao statements provided by iwi or hapū.
 45. The RPC must now hold a hearing into the submissions on the draft RSS. Previously hearings were optional. The first RSS must be adopted three years after the RPC is established. This is a tight timeframe to prepare a draft RSS, notify, receive submissions, and hold a hearing. Once the RSS is adopted, the RPC may review the RSS at any time, and must review if it is inconsistent with NBE plan. It must then start a process to replace the RSS nine years after its adoption.
 46. Any RMA plan change or policy statement issued after the RSS is notified must not be inconsistent with the proposed or finalised RSS and must have had regard to the relevant limits and targets under the NPF. Once an RSS has been adopted, the local authority must not commence the preparation of any amendment to its policy statement or plan under the RMA, except to fix an error, implement RMA national direction or address an emerging or urgent issue.

NBE plan

47. The RPC is to prepare the NBE plan for the region. The NBE plan must give effect to the NPF, provide for the needs of the communities of the region and be consistent with the relevant RSS. There is a new exception that allows for inconsistency with the RSS in certain circumstances, for example if there is a major environmental or economic event since the RSS was adopted.
48. One IHP for each region is to be established when the NBE plan is notified. The NBE Bill sets out the composition requirements of the IHP. It is to hear submissions on the NBE plan and make recommendations to the RPC. The RPC will then make the final decision on the NBE plan.
49. There are limited appeal rights for plan making. A merits-based appeal is only available if the RPC rejects the recommendation of the IHP, the appeal is then limited to the effect of the differences between the alternative decision and the IHP recommendation, or where the RPC accepts a recommendation that is beyond the scope of submissions. A person may otherwise only appeal the decision on the NBE plan to the High Court on a question of law.
50. Council's submission on the NBE Bill to the Committee highlighted issues in respect of the freshwater provisions, including freshwater farm plans, contaminated land, biodiversity and coastal management. While the Committee has recommended some changes, concerns still remain particularly around the ability of local authorities to participate in the Freshwater Working Group, the complexity of the Bills' provisions and their operational workability.
51. The Committee has made changes to the freshwater provisions in the NBE Bill:
 - a) The exemptions to the 10-year consent duration (up to a maximum of 35 years) have been expanded. Of note are for:
 - i) The construction, operation, upgrading, or maintenance of infrastructure that forms part of a public wastewater, storm water, or sewerage network; and
 - ii) the operation, upgrading, or maintenance of existing hydroelectricity generation schemes with an operational capacity of at least 5 megawatts.
 - b) There is a new regulation-making power that would enable the Minister to introduce further exemptions for nationally or regionally significant infrastructure and water storage that would deliver better outcomes related to resilience to environment change or climate change.
 - c) When an RPC receives an allocation statement it now must update its NBE plan in accordance with the plan change process in Schedule 7 of the NBE Bill.

52. The freshwater farm plan provisions remain. There is an amendment to enable regional councils to approve industry organisations to provide certification or audit services provided they meet certain standards set by the Minister.
53. The new regime for contaminated land remains. The polluter pays principle has been elevated to apply more broadly. It has now been incorporated into the decision-making principles as a matter that must be had regard to in all persons making decisions on the NPF or NBE plans.
54. The RPC is still required to consider whether a coastal occupation charging regime should be included in the NBE plan.
55. When a RPC is preparing or changing a NBE plan it must now have particular regard to:
 - a) a statement of community outcomes prepared by a territorial authority or unitary authority; and
 - b) a statement of regional environmental outcomes prepared by a regional council or unitary authority; and
 - c) any planning document recognised by an iwi authority or groups that represent hapū; and
 - d) any statement prepared by iwi or hapū to express their view on how Te Oranga o te Taiao can be upheld at the regional and local levels.
56. The first NBE plan must be prepared within 4 years and 4 months:
 - a) The RPC must resolve to begin drafting the NBE plan no later than 40 working days after it adopts the RSS, and then notify the NBE plan within two years of that resolution;
 - b) Further two years for the submission, hearing and recommendation process before the IHP and for the RPC to make its decision on the NBE plan.
57. The decisions version of the NBE plan is then treated as operative on the date that is 10 working days after the date it is published online incorporating the changes required to incorporate the decision. This operative date then becomes the regions "NBEA date". This is a key date because on this date, the region transitions from the RMA system to the new system.
58. On the region's NBEA date and subject to certain specified exceptions:
 - a) All RMA planning instruments cease to apply in the region;
 - b) Part 3 (duties and restrictions under the RMA) and Part 5 of the RMA (Standards, policy statements, and plans) cease to apply; and
 - c) The RMA ceases to apply to resource consents and resource consent applications lodged in the region after the NBEA date.

Consenting and designations

59. There are still four classes of activities, but the Committee has renamed the controlled activity category to "anticipated" activity. The four classes are permitted, anticipated, discretionary and prohibited. The current RMA "controlled" and "restricted discretionary" activities have been merged into the new anticipated activity and there is now no non-complying activity status.
60. Whether a consent is to be notified or not is to be set in the NPF or NBE plan.
61. Fast-track consenting for specified infrastructure and large housing developments will continue to apply. The fast-track process will come into force on Royal Assent.
62. For designations, territorial authorities, not RPCs, will be responsible for processing notices of requirements and the implementation plans outside of the plan making process.
63. While the consenting process generally will not be governed by the NBE Act until the NBEA date, there is a question as to how much the legislation and its concepts will influence current resource

management processes, particularly given parts for the NBE Bill, including Part 1 (purpose and principles) will come into force on Royal Assent.

Next Steps

64. The Bills are due to go to the House for their Third Reading. This is where the House debates the bills for the final time and votes to decide whether they come into law. The bills then come into law once they receive their Royal Assent.
65. Even if the Bills are enacted, their survival ultimately depend on this years' election. Council staff will continue to monitor the Bills and report back to the Committee following the election when there is clear steer from the new Government as to whether the new regime introduced by the Bills is to remain.

Author	Kim Lawson, Strategic Planner
Authoriser	Pere Hawes, Manager Environmental Policy

13. National Policy Statement for Freshwater Management 2020 – Giving Effect to Te Mana o te Wai

(The Chair) (Report prepared by Pere Hawes)

N100-001-04-01, E360-002-002-02

Purpose of Report

1. To report a reallocation of funding to assist Te Puna Korero in its work to give effect to Te Mana o te Wai.

Executive Summary

2. The NPSFM requires the Council manage freshwater to give effect to Te Mana o te Wai.
3. Te Tau Ihu iwi, with support of the National Science Challenge, have initiated a process for determining how Te Mana o te Wai applies to wai in Te Tau Ihu.
4. Currently, Te Puna Korero is working to co-design a planning framework to give effect to Te Mana o te Wai across Te Tau Ihu.
5. Additional funding of \$50,000 for the Environmental Policy Group budget was approved for the 2022/23, 2023/24 and 2024/25 years to assist the Council give effect to Te Mana o te Wai as part of the statutory planning requirements under the NPSFM.
6. \$30,000 was specifically allocated to the appointment of a Project Manager to assist Te Puna Korero.
7. Kura Stafford made a submission to the 2023/24 Annual Plan on behalf of Te tau Ihu iwi requesting an additional \$57,000 to secure a Policy Planner to assist the work of Te Puna Korero by building capacity and capability.
8. It is proposed to redirect the budget used to appoint the Project Manager to enable the contracting of a Policy Planner to assist Te Puna Korero.

RECOMMENDATIONS

1. That the information be received.
2. That the Committee note an adjustment of commitments to which the funding of \$50,000 for the Environmental Policy Group Budget in the 2022/23, 2023/24 and 2024/25 years to give effect to Te Mana o te Wai will be applied.

Background/Context

9. Te Mana o te Wai is the central concept for freshwater management in the NPSFM and refers to the vital importance of water. The concept has been part of the NPSFM since 2014. However, the NPSFM 2020 strengthens and clarifies Te Mana o te Wai by providing stronger direction on how Te Mana o te Wai should be applied when managing freshwater.
10. Section 1.3 of the NPSFM sets out the concept of Te Mana o te Wai, as follows:

“Te Mana o te Wai is a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community.”
11. A work programme involving taiao representatives of Te Tau Ihu iwi and planning staff from the three Top of the South councils is in progress to give effect to Te Mana o Te Wai in a local context. This work programme is referred to as Te Puna Korero.

12. Te Tau Ihu iwi secured funding through a project commissioned by Our Land and Water - The National Science Challenge to support giving effect to Te Mana o te Wai through mātauranga Māori.
13. Stage One of the project funded by the National Science Challenge was to gather information and develop an iwi “current state” report. The Stage One report, “Te Mana o te Wai – Te Tau Ihu Case Study Report: Volume One”. The report was received by the Planning, Finance and Community Committee on 17 February 2022.
14. The report provides a Te Ao Māori worldview, records the findings of the Waitangi Tribunal with respect to the northern South Island claims as they are relevant to wai, and provides the current thinking of nga Iwi in terms of what they consider to be working well and not working well in freshwater management.
15. Stage Two of the Te Tau Ihu iwi work programme is in progress. Nga iwi seek to work in partnership with the three councils to:
 - Conduct catchment-focused kōrero with whānau and hapū to gain a better understanding of perceptions and expectations around the implementation of Te Mana o te Wai, including reflections on the tool kit to be prepared by the National Our Land and Water research programme;
 - Co-design a planning framework to give effect to Te Mana o te Wai across Te Tau Ihu;
 - Identify the tools, interventions, resources, capacity and capability needed to achieve outcomes; and
 - Oversee the implementation of the framework.

Funding Request

16. An additional \$50,000 per annum was approved in the 2022/23 Annual Plan for the Environmental Policy Group Budget to cover the Stage 2 project as set out above, but also to enable engagement with Ngai Tahu/Ngati Kuri.
17. \$30,000 of the additional funding was committed to Te Tau Ihu iwi as a contribution toward the Stage 2 project. Equivalent funding was provided by Tasman District Council and Nelson City Council (i.e., \$90,000 in total considering the funding from the other two councils).
18. The combined funding enabled the appointment of a Project Manager in February 2023 to assist the work of Te Puna Korero.
19. Through further korero in Te Puna Korero, it became evident that the needs of Nga Iwi were best met through a Policy Planner. At the same time, the appointed Project Manager was happy to discontinue their role.
20. A submission to the draft 2023/24 Annual Plan was made by Kura Stafford, on behalf of Te Tau Ihu iwi, seeking an additional \$57,000 of funding from Council (and presumably also Tasman District Council and Nelson City Council). The funding was sought to build capacity and capability to allow Nga Iwi to more effectively contribute to the process of giving effect to Te Mana o te Wai through the plans of the three councils. The funding request signalled that the funds would be used to secure a Policy Planner to assist the work of Te Puna Korero.
21. The decision of Council was to approve an additional \$10,000 from the existing Environmental Policy budget, but to also refer this matter to the Committee for further consideration. The additional \$10,000 lifted the Council’s funding for Te Puna Korero to \$40,000. When matched by equivalent funding from Tasman District Council and Nelson City Council, the collective \$120,000 will enable the employment of a Policy Planner.
22. \$30,000 of the Environmental Policy budget is already specifically allocated to the funding of the Project Manager. As discussed above, a Project Manager is no longer required to assist the Stage 2 project. It is therefore proposed to meet the funding request by redirecting the committed funds to allow for the contracting of a Policy Planner to assist Nga Iwi in Te Puna Korero.

23. As already determined, the redirection is to be topped up by an additional \$10,000 from the existing Environmental Policy budget.
24. Provisions to give effect to Te Mana o te Wai would form part of the variation/change to the provisions of the PMEP required to be publicly notified by December 2024. For this reason, the funding is for the 2022/23, 2023/24 and 2024/25 years only.

Next Steps

25. Communicate the decision of the Committee to Kura Stafford on behalf of Te Tau Ihu iwi.

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

14. Dog Control Policy and Practices Annual Report 2022/2023

(Cllr Faulls) (Report prepared by Jamie Clark)

E305-003-003-01

Purpose of Report

1. To receive the Annual Dog Control Policy and Practices Report.

Executive Summary

2. This report covers the dog control activities for the 2022/23 financial year, 1 July 2022 to 30 June 2023.

RECOMMENDATION

That the report be received.

Background/Context

3. Section 10A of the Dog Control Act 1996 requires the Council to prepare an annual report on its administration of dog control policies and practices in respect of each financial year.
4. The report is required to contain information on the number of dogs registered, the number of dogs classified as dangerous and menacing, and the number of disqualified owners, the numbers of dog related complaints received, the number of infringement notices issued and the number of prosecutions taken by the Council under the Dog Control Act 1996.

Next Steps

5. The report will also be made publicly available on the Marlborough District Council website and published in a local newspaper.

Attachment

Attachment 1 – Dog Control Policy and Practices Annual Report 1 July 2022 to 30 June 2023 page [63]

Author	Jamie Clark, Contract Manager (Animal Control)
Authoriser	Gina Ferguson, Consents and Compliance Group Manager



Dog Control Policy and Practices Annual Report

1 July 2022 to 30 June 2023



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Background

The Marlborough District Council is required to manage and enforce provisions pursuant to the Dog Control Act 1996.

Section 10A of the Dog Control Act 1996 requires the Marlborough District Council (Council) to report annually on its Dog Control Policy and Practices and provide statistical information.

This report fulfils this statutory requirement for the financial year 1 July 2022 – 30 June 2023.

The objectives of this report are to:

- Report on Council's administration of dog control policies and practices; and
- Provide information on dog control activities.

This report will be available to the public on the Marlborough District Council website.

Operations

The Dog Control function has been contracted out to Maataa Waka Ki Te Tau Ihu Trust since 1998. Council and the contractor are parties to a contract, under which the contractor provides animal control services to the Council (current contract).

- Contract commencement date – 1 April 2022
- Expiry date - 31 March 2026
- Extension term three years
- Maximum contract term – 7 years

Council retains the administration of the contract, makes decisions on classifications of dog and owners, objections to classifications and infringements, and on decisions on whether or not to undertake prosecutions.

Dog Control Policy

The Council first adopted a policy and bylaw which came into force on Monday 1 October 2012.

Council undertook a review of our Dog Control Policy and Dog Control Bylaw which is required to be undertaken every 10 years. The review looked at dog access to all public places and included new Council reserves which have been created since the bylaws were previously reviewed.

The new Marlborough District Council Dog Control Policy and Bylaw were adopted by full Council on 24 June 2021 and came into effect on 1 August 2021.

This policy deals with various matters, including dog areas, fees and education. Council must have regard to:

- a) The need to minimise danger, distress and nuisance to the community generally.
- b) The need to avoid the inherent danger in allowing dogs to have unimpeded access to public places that are frequented by children, whether or not the children are accompanied by adults.
- c) The importance of enabling, to the extent that is practicable, the public (including families) to use streets and public amenities without fear of attack or intimidation by dogs; and
- d) The exercise and recreational needs of dogs and their owners.

Council's objective is to encourage responsible dog ownership that allows owners to enjoy their dogs without infringing on the enjoyment and safety of others. Good dog owners should:

- a) Register their dogs and make sure they wear a current registration tag.
- b) Keep their dogs under control.
- c) Provide their dogs with care and attention.
- d) Provide their dogs with proper and sufficient food, water, shelter, and exercise.
- e) Not let their dogs be a nuisance to others.
- f) Make sure their dogs do not injure, endanger, intimidate or distress any person or other animal or damage property.
- g) Comply with the Act, any regulations, and the Dog Control Bylaw.

A copy of the new Dog Control Policy can be viewed on the Council's website:

<https://www.marlborough.govt.nz/services/dogs-and-other-animals/dog-and-animal-laws/dog-control-policy>

A copy of the new Dog Control Bylaw can be viewed on the Council's website:

<https://www.marlborough.govt.nz/your-council/bylaws/dog-control-bylaw-2021>

Dog Exercise Areas

Dog areas are set out in Council's Dog Control Policy and Bylaw.

Dogs are allowed off leash in some areas, provided they are kept under control at all times.

There are a total of 32 dog off leash areas in the Marlborough district.

Dogs are prohibited from areas that have an intense public use, where dogs may compromise the enjoyment of the area, where ecological or economic values would be threatened, where space or sight lines is limited on narrow walkways and pedestrians may be threatened.

There are **48 dog prohibited areas** in Marlborough, the majority being sports grounds, reserves, domains, and wetland areas. These are outlined in the new Dog Control Policy and Bylaw.

Dogs are allowed in any public area that is not identified as a dog prohibited area or dog off leash area but must be kept on leash and under control at all times. There are **84 public areas across the Marlborough district where dogs are required to be on leash**. These are outlined in the new Dog Control Policy and Bylaw.

Blenheim Central Business District (CBD) and Picton Central Business District allows dogs on a leash.

Marlborough currently has one purpose-built dog park at Renwick which is a fenced dog exercise area with three separate areas: a large dog area, a small dog area and a quiet zone.

Planning is underway for the development of a second Dog Park in Blenheim.

Fees

The registration categories and fee structure for the 2022/23 year are set out in the table below.

Category	Annual Fee
Dog registration – category One Each dog must be desexed and microchipped, and have no infringement notice or conviction under the Dog Control Act 1996 for the last 2 years i.e. since 1 July 2020.	\$62
Dog registration Any non-working dog that does not meet all of the Category One criteria. This includes any dogs that have been classified as 'menacing'.	\$92
Old Dog For dogs over 12 years (as of 1 July 2020) that were registered for the first time prior to 1 July 2008 (proof of registration is required).	\$46
Dangerous Dog This includes any dog classified as 'dangerous'. Dangerous dogs are excluded from the old dog and categories One & Two.	\$138
Working Dog Includes farm dogs primarily used for herding stock, 10 + working dogs (for each extra dog).	\$22 \$11
Disability assist dogs and Police dogs	No fee

Note: that late penalty fees were charged (50 percent of the applicable fee) for payments made after 31 July 2022.

Funding

Dog Control is 80 percent funded from dog registration fees and 20 percent rates funded. The fees are set to cover the budgeted cost of the Dog Control function.

Education

A dog safety education course is available to schools and groups of primary school and pre-school aged children. The purpose of this course is to promote safety around dogs as well as responsible dog ownership and care. This programme is provided free of charge. There were 39 presentations provided to pre-school and primary schools for the year 1 July 2022 to 30 June 2023.

There were also three presentations to adults on dog safety and dog behaviour and two attendances at public events.

An information insert on dog registration, responsible ownership and dog owner obligations was sent to all dog owners with their dog registration forms.

Information on relevant topics such as barking dogs and roaming dogs is distributed to owners of dogs that come to Animal Control's attention.

Animal Control is also involved in a collaborative interactive safety programme that has developed from within the Marlborough Child Safety Group and is based on the "Clued Up Kids" project developed in Strathclyde, Scotland (2001).

The pilot Marlborough Clued-Up Kids project was designed to instil confidence and develop life skills through the practical hands-on application of safety messages. Year 5/6 students from Marlborough Schools are taken in small groups on a 15-minute rotating circuit of safety sets around Bradshaw Park, ie, Police, St Johns, Rail Safety, Water Safety, Emergency Response, Personal Safety, Dog Safety, Cycle Safety, ATV Safety, Home Hazards and Fire Safety. This event goes for one week in November each year.

Interaction with the Public:

Each of the four Animal Control Officers undertook five hours per week of patrolling across the Marlborough district to monitor roaming dogs and other potential breaches of the Dog Control Act 1996 and Bylaws and take appropriate enforcement action.

The patrols are an opportunity for the Animal Control Officers to interact with the public to encourage compliance, responsible dog ownership, dog safety and to also check on doggie-doo stations and dog signage.

Dogs and Owners

As at 30 June 2023, the Marlborough District had a total of 10,897 active dogs (last year 10,758) which included 2779 dogs registered as working dogs (including disability assist dogs and Police dogs) (last year 2,823) and 7992 dogs registered as non-working dogs (last year 7,935).

Multiple Dog property Licence

The Marlborough District Council Dog Control bylaw requires that no owner shall keep more than two dogs on a property (not zoned rural) without being the holder of a Multiple Dog Property Licence issued by Council.

There are currently **255 current** and active licences out of a total of 396 which have been issued over the years.

The table below shows that 21 Multiple Dog Property Licences were issued which is down on the previous year

	2018/19	2019/20	2020/21	2021-22	2022-23
Multiple Dog Property Licence Issued	17	24	42	31	21

Enforcement

Disqualifications and Probationary Owners

There are no probationary owners in the Marlborough district.

There is one new disqualified owner in the Marlborough district in this reporting period.

There were no disqualifications which expired over the 2022/2023 reporting period. There are currently four active disqualified owners in the Marlborough district.

Period of Disqualification	Expiry Date	Section
5 Years	16 September 2027	25(1)(a)
5 Years	23 March 2025	25(1)(a)
5 Years	06 October 2025	25(1)(b)
5 Years	04 November 2025	25(1)(b)

Menacing and Dangerous Dogs

There are 3 new dogs which were classified as dangerous in the 2022/23 year in accordance with section 31 of the Dog Control Act 1996. A total of 12 dogs are classified as dangerous (last year there were 13).

There were 10 dogs classified as menacing. For the dogs classified as menacing,

- 6 were classified as menacing based on observed and reported behaviour in accordance with section 33A and
- 4 --were classified as menacing by breed or type listed in Schedule 4 in accordance with section 33C of the Dog Control Act 1996.
- Total dogs classed as menacing in Marlborough area 98 (last year there were 100)

Infringements

A total of 190 infringement notices were issues in the 2022/23 year compared with 220 infringement notices issued in the 2021/2022 year.

Infringements	Number Issued 2018/19	Number Issued 2019/20	Number Issued 2020/21	Number Issued 2021/22	Number Issued 2022/23
Total issued	192	205	239	220	190

The most common infringement notice was failure to register dog with 117 infringements. The table below shows the sections that the infringement notices were issued under.

Section	Breach	Number Issued 2018/19	Number Issued 2019/20	Number Issued 2020/21	Number Issued 2021/22	Number Issued 2022/23
18	Wilful obstruction of dog control officer or ranger	2	3	2	0	1
19(2)	Failure or refusal to supply information or wilfully providing false particulars	1	3	-	0	1
20(5)	Failure to comply with any bylaw authorised by the section	7	3	-	3	1
32(2)	Failure to comply with effects of classification of dog as dangerous dog	1	1	-	2	6
33EC(1)	Failure to comply with effects of classification of dog as menacing dog	19	10	10	11	10
41	False statement relating to dog registration	-	1	-	0	-
41A(4)	Falsely notifying death of dog	4	-	2	1	2
42	Failure to register dog	101	137	151	146	117
48(3)	Failure to advise change of ownership	-	-	1	1	1
52A	Failure to keep dog controlled or confined	45	30	22	24	29
53(1)	Failure to keep dog under control	11	17	51	28	18
54(2)	Failure to provide proper care and attention, to supply proper and sufficient food, water, and shelter, and to provide adequate exercise	-	-	-	1	2
72(2)	Releasing dog from custody	1	-	-	3	2

Complaints

A total of 2478 complaints were received in the 2022/23 year. This is slightly down on the total of 2,532 complaints received in the previous year. All complaints were attended to and investigated.

The majority of complaints received related to roaming, found or lost dogs or dog nuisance barking. The number of dogs that were reported to Animal Control as found in the 2022/23 was 521 which were down from 595 in the previous 2021/22 year. It seems that a number of dogs that are found are posted onto social media sites to try and reunite the dogs with their owners before contacting Animal Control.

There were 69 complaints related to a dog attack, bite or rushing at a person/animal compared with 87 in the previous reporting period. These complaints are the most time consuming to investigate and determine what enforcement action should be taken.

Type of complaint	Number 2018/19	Number 2019/20	Number 2020/21	Number 2021/22	Number 2022/23
Barking	450	385	389	413	459
Bylaws	48	43	21	22	16
Dog Attack/ Bite/ Rush Person	47	53	64	38	42
Dog Bite Other	31	23	36	42	21
Dog Nuisance	23	34	49	67	53
Dog Rush Other	13	7	5	7	6
Found	519	778	629	595	521
Fouling	13	14	16	5	4
General Request/Other	96	622	634	597	533
Lost	229	326	302	265	256
Roaming	559	380	360	346	441
Uncontrolled	55	41	43	49	39
Unregistered Dog	38	59	64	71	45
Welfare	43	54	38	45	42
Total	2,164	2,819	2,650	2532	2478

Impounded/Unclaimed/Surrendered Dogs

A total of 229 dogs were impounded for the 2022/23 year which is an increase from the 157 (total on last year's 10A report) dogs impounded for the previous 2021/22 year.

There has also been an increase of dogs not being claimed from the pound.

With the rising cost of living it appears that the public are finding it harder on the affordability of owning a dog. This has also become noticeable in rehoming dogs as fewer members of the public are willing to take on a new dog at this time and rehome centres such as the SPCA are also full as they struggle to find homes for dogs.

Animal Control does try to return lost and found dogs to their owners without impounding the dogs if they are able to contact the owners provided that the dogs are registered, microchipped and they have no previous history of roaming.

Animal Control runs a Pound Hounds Facebook to advertise if any lost and found dogs have been impounded and they are unable to identify the owners as their dogs are not microchipped or wearing their dog registration tag and/or owners have not updated their contact details.

The majority of the dogs that were impounded were released to their owners. The dogs that were not claimed by their owners were sent to the SPCA, re-homed from the pound or euthanised, depending on temperament and characteristics.

All dogs unclaimed from the pound go through a temperament and characteristics test to make sure that they are suitable for re-homing to the SPCA or to members of the public. Members from the public who want to apply for a dog from the pound must complete an application form and have a background check of no previous breaches to the Dog Control Act 1996 to make sure they are suitable for Animal Control's rehoming programme.

There is a Care and Custody Agreement between Council and the SPCA with respect to the care and costs of caring for these dogs.

During 2022/23, a total of 25 dogs were rehomed from the pound, an increase on the 18 dogs rehomed in the 2021/22 year. There were five dogs were rehomed to the SPCA and 20 dogs were rehomed to members of the public.

Outcome for Impounded Dogs	Number 2018/19	Number 2019/20	Number 2020/21	Number 2021/22	Number 2022/23
Impounded dogs released to owner. (% of total dogs released to owner)	264 (88.6%)	160 (83.3%)	158 (81.8%)	132 84. %	192 83.8%
Impounded dogs rehomed. (% of total dogs impounded rehomed)	22 (7.4%)	23 (12%)	25 (13%)	18 11.5 %	25 10.9%
Impounded dogs euthanised (% of total dogs impounded euthanised)	12 (4%)	9 (4.7%)	10 (5.2%)	7 4.5%	12 5.3%

The table below shows the reason why dogs that were impounded were euthanised. Of the 12 dogs that were euthanised in 2022/23 they had been involved in dog attacks on people, other dogs or stock, failed a temperament test or classified as Menacing or Dangerous. One of the dogs was euthanised for health and welfare grounds on the recommendation of a veterinarian. If court proceedings are taken for dogs attacking persons or animals and the court is satisfied that the dog has committed an attack as described in section 57 of the Dog Control Act 1996 and the dog has not been destroyed, the court must make an order for the destruction of the dog unless it is satisfied that the circumstances were exceptional and do not warrant destruction of the dog.

Reason for Euthanasia	Number 2018/19	Number 2019/20	Number 2020/21	Number 2021/22	Number 2022/23
Classified dangerous/menacing (deed)	2	1	-	2	1
Menacing breed or type	2	2	-	1	1
Health or welfare issues	-	-	-	0	1
Failed temperament test	4	4	-	0	2
Surrendered to Animal Control after an attack	4	2	7	4	7
Court Ordered Destruction	-	-	3	0	-
% of all dogs euthanised as American Pit Bull Terrier	16.6%	22.2%	0%	14.3%	8.33%

Prosecutions during 2022/23 under the Dog Control Act 1996

No prosecutions were taken during 2022/23

Unregistered Dogs

Animal Control runs a project to identify and follow up any unregistered dogs, being the Unaccounted-for Dog Check Project. As part of this project dogs were found that had been previously registered, but not re-registered for the 2022/23 registration year.

Dog registration forms were sent out by the start of June 2022 and reminder letters were sent to all dog owners who had not paid their dog registration fees by mid-July 2022. Follow up included phone calls, emails and property visits to the last known address.

Dogs that were still in Marlborough and alive were correctly registered. Records were also updated for those dogs that had died, changed address or were gone with no contact address. Owners of unregistered dogs received an infringement notice under section 42 of the Dog Control Act 1996.

Due to staff shortages the project was ongoing through to the start of the 2023/24 registration period, there were still 83 dogs to be followed up with.

Microchipping

The total number of dogs microchipped in the Marlborough district was 8,794.

Dogs still required to be microchipped are 516.

Working dogs or dogs born before 1 July 2006 are not required to be microchipped.

15. Dairy Shed Effluent and Stream Crossing Survey 2022/2023

(Cllr Minehan) (Report prepared by Tonia Stewart)

E330-001-004, E330-001-005

Purpose of Report

1. The purpose of this report is to inform the Council of the Compliance Group's monitoring of dairy shed effluent and stream crossings during the 2022/23 dairy season.

Executive Summary

2. The 2022/2023 dairy season was a challenging year for Marlborough dairy farmers. The August weather event caused significant flooding impacting on Marlborough's rural community. The Dairy effluent inspections were delayed until September allowing farmers some time and space to recover during the difficult period.
3. In the 2021/2022 monitoring period Marlborough had 44 operating dairy farms there are now 43.
4. Council inspected 42 out of 43 dairy farms in 2022/23. All 42 of these farms were monitored against the PMEP or resource consent conditions. 32 of these were monitored against the activity standards within the PMEP that have legal effect. The percentage of farms that were rated as compliant with the PMEP was 97% (30 farms). This is a 6% increase from last year.
5. Stream crossing elimination is continuing to progress. There is only one farm with stream crossings remaining. This farm has two stream crossings remaining. Last year there were two farms that had four and one stream crossing remaining respectively.

RECOMMENDATION

That the information be received.

Background/Context

6. The 2022/2023 season 42 out of 43 of farms were inspected (98%).
7. Council continues to complete a compliance report against the PMEP rules for dairy shed effluent. A PMEP compliance report was completed for all farms that operate under the permitted activity standards or that operate under a resource consent that is due for expiry.
8. Stream crossings are also checked during the dairy shed effluent survey. All areas where dairy cattle walk through waterways must be eliminated. The properties with remaining stream crossings are checked for progress toward elimination.
9. The synthetic nitrogen NES-F standards came into effect 1 July 2021. Farmers are now required to report their usage annually. All farms were assessed against the NES-F standards for the application of synthetic nitrogen.

Monitoring Undertaken

Dairy Shed Effluent in Marlborough

10. A national criteria for assessing dairy effluent compliance has been created and Marlborough District Council work with this criteria. A traffic light system is utilised to indicate compliance with permitted activity rules of the PMEP or the respective resource consent conditions for each farm. Conditions or rules were assessed as:

Green are compliant and no action is required;

Yellow are technically non-compliant for minor breaches with no-adverse environmental effects;

Orange are non-compliant where corrective or remedial action(s) may be required; and

Red are significantly non-compliant, where a persistent or significant breach has occurred.

11. Dairy effluent inspections are undertaken using the 'cold calling' method as recommended by the national auditing guidelines.

Proposed Marlborough Environment Plan

12. Within the PMEP the discharge of dairy farm effluent into or onto land is a permitted activity within the Rural Environment Zone and the Coastal Environment Zone. The discharge of dairy effluent is required to meet the permitted activity standards specific to the zone that the farm is located within.
13. This season Council continued to complete a compliance report for the PMEP plan rules for dairy shed effluent for the farms that operate under the permitted activity standards.

Monitoring Results

Resource Consent

14. Following inspections 91% (10 farms) of farms operating under resource consent were rated as **compliant**, 0% (0 farms) were rated as **technically non-compliant** and 9% (1 farm) was rated as **non-compliant**. No farms were rated **significantly non-compliant** again this year. (This is compared to 73%, 9%, 18% and 0% respectively compared to last year's figures).
15. The non-compliance observed during the 2022/23 survey was due to herd size exceeding the resource consent conditions. The consent holder was sent a please explain letter. The resource consent has now been surrendered and is operating under the PMEP rural environment zone where the discharge of dairy farm effluent into or onto land is a permitted activity.

PMEP

16. 32 farms operated under the PMEP for the discharge of dairy farm effluent.
17. 31 farms were inspected and assessed under the PMEP permitted activity for the 2022/2023 year.
18. 97% (30 farms) of farms were rated as **compliant** and 3% (1 farm) were rated as **non-compliant**. Non-compliance was due to ponding and discharging when soil moisture exceeds capacity. (This is compared to 91% and 9% respectively in last year's figures). Enforcement action was undertaken for the non-compliance resulting in an infringement notice issued.
19. A total of 35 farms have lined storage systems. 8 farms do not have lined systems. There were 10 unlined ponds in the previous year. All farms must have a lined system within 24 months after the PMEP becoming operative.

NES-F Subpart 4 – Application of synthetic nitrogen fertiliser to pastoral land

20. National Environmental Standards for Freshwater (NES-F) subpart 4 – Application of synthetic nitrogen fertiliser to pastoral land.
21. Dairy farmers milking cows on a farm area of more than 20 hectares are required to record synthetic nitrogen use on their dairy platform land. The regulations require data to be submitted by 31 July of each year for the preceding year ended 30 June.
22. The Regional and Unitary Councils committed to working together with Ravensdown and Ballance to deliver a consistent method for storing and reporting the synthetic nitrogen fertiliser data in the National Environmental Standards.
23. Ravensdown and Ballance offer tools for farmers to use to record synthetic nitrogen use. The Regional and Unitary Councils (Te Uru Kahika) have developed a web-based tool. It is a farmer's choice which tool they use to help them comply with the Regulations.
24. The three tools that farmers can choose from to submit records of synthetic nitrogen use are:
 - Ravensdown's HawkEye app

- Ballance's MyBallance app
- The Regional Sector's web portal named N-Cap (N-Cap.teurukahika.nz)

25. Nationally - in the first year of recording the data have revealed the following information:
- 40% of farmers provided data – about one third through each of the three tools.
 - The central database provided combined reports to each region.
 - There were issues with the tools and connection to the database meaning councils did not get a complete set of data for their region until late in 2022. Compliance was difficult because of the delays.
 - Nationally about 2% of those farmers who reported were exceeding the cap. Councils have followed up with these – often the exceedance related to reporting errors and councils are working with some farmers to better plan synthetic nitrogen usage.
26. In Marlborough 100% (43) dairy farms provided synthetic nitrogen data.
- 100% (43) dairy farms were **compliant** with the synthetic nitrogen cap of 190 kg/ha/year meeting the requirements of the regulation 33 (2). Two dairy farms do not apply any synthetic nitrogen to land.
 - 25 dairy farms were assessed as **compliant** with all the required standards.
 - 17 dairy farms were assessed as **technically non-compliant**. 15 dairy farms submitted their nitrogen data after they received a letter of direction. Two dairy farms had submitted their nitrogen data via Overseer or Fonterra reports which did not provide all the data required in the regulations.
 - Discretion was given for the annual synthetic nitrogen report in terms of the deadline to provide the information for the period (1 July 2021 to 30 June 2022).
 - Nil farms were assessed as **non-compliant** or **significantly non-compliant** under the NES-F standards.

Overall Compliance Levels that includes the assessment of the NES-F Synthetic nitrogen standards

27. Overall compliance during the initial inspections for all 42 farms operating under both PMEP permitted activity standards and resource consent conditions during the 2021/2022 monitoring period was as follows:
- 25 farms (55%) were assessed as **compliant**.
 - 17 farm (40%) was **technically non-compliant**. (NES-F Synthetic nitrogen standards)
 - 2 farms (5%) were **non-compliant**.
 - 0 farms were assessed as **significantly non-compliant**.

Stream Crossings

28. Only two stream crossings remain on dairy farms in the district both are situated on one farm. Last year there were five stream crossing in the district that were situated on two farms.
29. The permitted activity standards within the PMEP restrict intensively farmed livestock from entering onto or passing across the bed of a river if there is water flowing in the river. Each farm has been advised that the crossings cannot be used when water is flowing and there will be a continued focus on eliminating the remaining stream crossings.

Future Activities

30. For the 2023/24 season Council will continue to monitor the discharge of dairy effluent to land. Council will prioritise monitoring of previously non-compliant farms and any farms that require improvements to be made.
31. This season's inspections of dairy effluent systems will include monitoring fencing of waterways required under the Resource Management (Stock Exclusion) Regulations 2020; these regulations commenced for dairy cattle on the 1 July 2023.

32. Liaison with Fonterra and the local farmers is on-going to assist with the implementation and ongoing reporting of the NES-F and Stock Exclusion requirements.


Attachment

Attachment 1 – Dairy and Stream Crossing Survey 2022/23 Snapshot

page [77]

Author	Tonia Stewart, Environmental Protection Officer
Authoriser	Gina Ferguson, Consents & Compliance Group Manager



KEY POINTS	Snapshot of the 2022/23 monitoring programme	
<p> 43 dairy farms operate in Marlborough.</p> <p> 32 farms operate under permitted activity status under the Marlborough Sounds Resource Management Plan.</p> <p> 11 farms operate under Resource Consent.</p> <p> 97% (30 out of 31) PMEP and 91% Resource consent (10 out of 11) farms were compliant at time of inspection.</p> <p> 5% (2 out of 42) farms were non-compliant at the time of inspection.</p> <p> 0 significant non-compliance was observed.</p>	<p>What was found during the 2022/2023 annual monitoring inspections</p> <p>Marlborough District Council monitored 42 out of 43 dairy farms. Monitoring consists of conducting a site visit to the farm and assessing any records that are required to be provided by resource consent conditions.</p> <p>This season 31 farms were assessed for compliance against the Proposed Marlborough Environment Plan (PMEP) rules for dairy effluent.</p> <p>Areas of Non-compliance:</p> <ul style="list-style-type: none"> • Ponding in the effluent disposal field • Herd size exceeding resource consent condition <p>Enforcement Action</p> <p>One infringement notice was issued to the ponding in the effluent disposal field</p>	<p>The NES-F standards for Synthetic Nitrogen came into effect this season.</p> <p>100% (43) dairy farms were compliant with the synthetic nitrogen application cap of 190 kg/ha/year - meeting the requirements of regulation 33 (2).</p> <p>26 dairy farms were assessed as compliant with all the required nitrogen standards.</p> <p>17 dairy farms were assessed as technically non-compliant. This was due to submitting their nitrogen data outside the required time frame in the regulations.</p> <p>0 farms were assess as non-compliant or significantly non-compliant.</p> 

Summary of Compliance Rating System

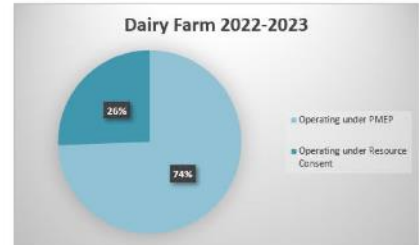
Results reported in this snapshot reflect the compliance of each permitted activity standard or resource consent condition, the lowest rated condition is the overall compliance level. For example a wastewater discharge consent could have 25 conditions of which 23 are rated compliant (green), 1 is rated minor non-compliance and 1 is rated significant non-compliance – the consent is rated significant non-compliance.

Full Compliance	Technical non-compliance	Environmental non-compliance	Significant non-compliance
100% compliance with all consent conditions/ permitted activity standards assessed	Non-compliance with condition which are considered to only have minor or no adverse environmental effects. E.g. failure to keep records	Breach of effects based/best practice conditions/rules that cause minor actual or potential environmental effects. E.g. ponding of wastewater remediated immediately.	Significant breach of effects based/best practice conditions/ rules that cause actual or potential environmental effects. E.g. multiple exceedances of parameters or wastewater reaching a waterway.



Compliance Levels over the last four seasons for Resource Consents

	2019/2020 Percentage	2020/2021 percentage	2021/2022 percentage	2022/2023 Percentage
Full Compliance	89%	87% (27)	73% (8)	91% (10)
Technically Non-Compliance	2%	3% (1)	9% (1)	0%
Non Compliant	9%	10% (3)	18% (2)	9% (1)
Significantly Non-Compliance	0%	0%	0%	0%



Compliance Levels over the last four seasons for PMEP

	2019/2020 Percentage	2020/2021 percentage	2021/2022 percentage	2022/2023 Percentage
Full Compliance	94%	96% (24)	91% (30)	97% (30)
Technically Non-Compliance	0%	0%	0%	0%
Non Compliant	6%	4% (1)	9% (3)	3% (1)
Significantly Non- Compliance	0%	0%	0%	0%

35 farms have effluent storage systems that are lined with an impermeable material. 8 farms do not have lined systems.

6 storage systems are located in a flood zone area, 4 of these farms hold resource consent to legalise the location, the remaining 2 farms have lined systems.

5 farms have soil sensitive areas, only two spread effluent in these areas and hold a resource consent which permits this discharge of dairy effluent to land.

Overall farm compliance 2022/2023 (effluent disposal and synthetic nitrogen regulations)

	2022/23
Full Compliance	56% (24)
Technically Non-Compliance	39% (17)
Non Compliant	5% (2)
Significantly Non- Compliance	0

All technical non-compliance was due to providing N-Cap data after the required date. It was the first year these regulations were operational and all data was provided therefore Council took an educational response to this technical non-compliance.

Compliance with the Nitrogen Application Limits



Stream Crossings

Last year there were two farms that had 5 stream crossings. This year there remain 2 stream crossings in the district, and these are situated on 1 farm. This farm still has one bridge building underway which was evidenced on site but is not completed.

The permitted activity standards within the PMEP restrict intensively farmed livestock from entering onto or passing across the bed of a river if there is water flowing in the river. Farms are aware of these restrictions and there will be a continued focus on eliminating the remaining stream crossings, which they are actively working towards.



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
 Website: www.marlborough.govt.nz



**MARLBOROUGH
DISTRICT COUNCIL**

16. Noise Control Contract Performance 2022/2023

(Clr Sowman) (Report Prepared by Karen Winter)

E350-007-009-02

Purpose of Report

1. The purpose of this report is to update the Committee on the performance of the Noise Control Contractor from 1 July 2022 to 30 June 2023 and explain how they perform their function.

Executive Summary

2. Council's Noise Control Contractor has continued to provide the required service to ensure any noise complaints are dealt with professionally and promptly.
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RECOMMENDATION

That the information be received.

Background/Context

3. Under the Resource Management Act 1991 (RMA), Council has the ability to deal with Excessive Noise.
4. Excessive noise is defined in the RMA as any noise that is under human control and unreasonably interferes with the peace, comfort or convenience of a person. It includes noise emitted by a musical instrument, electrical appliance, machine or people.
5. On receipt of a complaint, a Noise Control Officer goes on site to assess whether the sound is excessive or not. The Officer will undertake a subjective assessment and determine if the noise is excessive. The level of noise that is acceptable varies according to location of neighbours, time of day, zone you live/work in, presence of sound barriers and the type of noise. Officers do not use any monitoring equipment to determine if the noise is excessive (as it is not based on plan noise limits) but use a matrix that provides a scoring system.
6. If the noise is deemed to be excessive, an Officer will serve a written direction to reduce noise, which is in force for up to 72 hours. Failure to obey the direction can result in equipment seizure, an infringement fee of \$500 or a conviction for an offence and liability up to \$10,000.
7. If equipment is seized, an Environmental Health Officer establish whether the equipment can be returned to the owner or retained by Council if the return of the equipment would likely result in the resumption of the nuisance. When the equipment can be returned to the owner, all costs associated with the seizure need to be paid in full first. If it is determined that the equipment should not be returned then it is required to be held by Council for six months, this allows time for the owner to appeal to the Environment Court for its return.
8. An Abatement Notice to cease creating a noise nuisance can also be issued to the occupier of the premises or dwelling if there are ongoing occurrences of excessive noise. If the occupier fails to comply with the Abatement Notice, the Officer (with the assistance of the Police) can remove or disable the equipment that is causing the noise immediately, without the need to first issue an Excessive Noise Direction.

Comments

9. There were 906 complaints received regarding excessive noise from 1 July 2022 to 30 June 2023. This is an increase of 37 from the previous year.
 10. From 1 July 2022 to 30 June 2023 there were 72 Excessive Noise Directions issued and 8 seizures of equipment. Four of the items seized were disposed of while the other four continue to be held for the six-month period required to see if they will be claimed or allow the appeal period to be completed.
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11. There were no Noise Abatement Notices issued during this period.
12. Armourguard trains their Officers on how to respond to noise complaints. This training is supported by the Environmental Health Team when required.
13. Monthly meetings are held with the local Armourguard manager to discuss any developing issues or concerns.
14. Information brochures are available to inform people on the process involved when a noise complaint is received and their rights if they have noise equipment seized.

Next Steps

15. There will be continued monitoring of this contract and training of Officers to ensure consistency of excessive noise assessment.
16. There will be continued development of educational material for members of the public to help inform them on noise related matters.

Presentation

A short presentation will be given by Karen Winter on the management of excessive noise under the RMA and contractor performance for 2022/2023 year. (10 minutes).

Author	Karen Winter, Team Leader Environmental Health
Authoriser	Gina Ferguson, Consents & Compliance Group Manager

17. 2022/23 Regulatory Budget Carryovers

(The Chair) (Report prepared by Christine Leslie)

R450-002-G01, F275-001-02

Purpose of Report

1. The purpose of this report is to request that the **attached** carryovers for the Regulatory Department be incorporated into the 2023/2024 budget.
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RECOMMENDATION

That the 2023/2024 budget be amended to incorporate the Regulatory Department 2022/2023 carryovers.

Background

2. A number of works scheduled for completion in 2022/2023 did not proceed (or were not completed) for a variety of reasons.
3. Details of these works are recorded on the schedule **attached**.
4. There is no rating impact arising from the “carryover” action.

Request for Regulatory 2022/2023 Budget Carryovers to 2023/2024

Resource Consent

Forestry Activity Practice and Condition Guidance	
Domestic wastewater guidelines	
Coastal Structures and Shoreline Protection Guidelines	290,000
Water accounting Project	
Capacity and Capability	
	<u>290,000</u>

Building Control

Geotechnical Report Guidelines	95,000
	<u>95,000</u>

Environmental Health

Quality Manual	
External Health & Safety Contractor Audit	115,000
Capacity & Capability	
	<u>115,000</u>

Advocacy & Practice Integration

Regulatory Reform programme	300,000
Emergency Response Preparation	
	<u>300,000</u>

Dog Control

Signage	15,000
	<u>15,000</u>

Biosecurity

National Wilding Conifer Programme	15,990
	<u>15,990</u>

Compliance

Forestry Monitoring Programme Review & Guidance.	
External Health & Safety Audit of Contractor	
Enforcement and Practice Manual	
National Farm Plan System Integration	440,000
Capacity and Capability	
	<u>440,000</u>

Environmental Review

Working for Nature grants	18,500
Environmental monitoring reports	189,000
Telemetry equipment	60,000
	<u>267,500</u>

Environmental Policy

Marine Farm variation appeals	320,000
Freshwater Management (Better off funding)	307,990
	<u>627,990</u>

Harbours

Aton System upgrade/IRex digital platform	496,000
	<u>496,000</u>

18. Information Package

RECOMMENDATION

That the Regulatory Department Information Package dated 24 August 2023 be received and noted.
