

3. Public Excluded Decision and Recommendations on Variation 1: Marine Farming and Variation 1A: Finfish Farming

(Clr Hope) (Report prepared by Pere Hawes)

M100-11-002-01, M100-11-004-01

Purpose of Report

1. To provide an update on the progress with reaching a decision on Variation 1 and 1A.
2. To provide recommendations from the Variation 1 and 1A Hearings Panel for the consideration of the Council.

Executive Summary

3. Variations 1 and 1A were prepared for the purpose of managing marine farming activity in Marlborough's coastal marine environment. Variation 1 applied to marine farming other than finfish farming, while Variation 1A applied to finfish farming only.
 4. Variations 1 and 1A were publicly notified on 2 December 2020.
 5. Submissions on the notified variations were heard between 8 and 18 November 2021.
 6. The Hearing Panel has recently provided its decision on Variation 1 and 1A. In doing so, the Panel provided a recommendation to withdraw Variation 1A and to withdraw four Aquaculture Management Areas contained in the Variation 1 provisions. The Hearing Panel's delegation does not extend to withdrawing provisions as this is a decision for Council.
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RECOMMENDATIONS

1. **That the information be received.**
 2. **That Variation 1A be withdrawn.**
 3. **That specific AMA proposed by Variation 1 and identified in Attachment 2 be withdrawn.**
 4. **That public notice be placed in the Marlborough Express, Blenheim Sun, Nelson Evening Mail, the Post and Christchurch Press to advise of the withdrawal of Variation 1A and the notified AMA.**
 5. **That copies of the public notice be served on all submitters and all holders of coastal permits authorising marine farming activity to which the withdrawal applies.**
 6. **That options for progressing PMEP provisions for the management of finfish farming in Marlborough's coastal marine be reported to the Environment and Planning Committee at the earliest opportunity.**
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Background/Context

7. When the Council adopted the PMEP for notification in June 2016, it determined that the provisions managing marine farming were to be removed. The Council was not satisfied that the draft provisions adequately gave effect to Policy 8 of the New Zealand Coastal Policy Statement. As an alternative, the Council determined that the review of the operative provisions of the Marlborough Sounds Resource Management Plan and Wairau/Awatere Resource Management Plan managing marine farming would continue.
8. In September 2016, the Council appointed the Marlborough Aquaculture Review Working Group (MARWG) to assist the Council with the review process. The MARWG consisted of members of the

marine farming industry, community organisations in the Marlborough Sounds and central government agencies.

9. The MARWG commenced meeting in March 2017 and a further 15 meetings were held up to and including June 2019. The MARWG was assisted in its task by a Technical Advisory Group.
10. The MARWG reported back to the Council in July 2019. This report included a series of recommendations in terms of the nature and form of marine farming provisions. The MARWG also provided a draft variation.
11. The recommendations and the draft provisions were adopted by the Planning, Finance and Community Committee as the basis for a draft variation to the PMP.
12. The resolution of the Committee in 2019 also included an instruction to scope the nature of variation to manage finfish farming.
13. The MARWG did not consider finfish farming due the Minister of Fisheries Section 360 process considering relocation of the existing New Zealand King Salmon Ltd farms in low flow sites. However, in providing its recommendations, the MARWG did state that the finfish provisions would ideally form part of the variation in order to ensure integrated management of marine farming activity.
14. The Council relied upon a report and recommendations from the Marlborough Sounds Salmon Farm Relocation Advisory Panel¹ to prepare Variation 1A. The report represented the best available public information on the appropriateness of coastal space in the Marlborough Sounds for salmon farming.
15. Two variations were publicly notified on 2 December 2020:
 - Variation 1: Marine Farming
 - Variation 1A: Finfish Farming
16. The variations received 115 submissions and 954 further submissions.
17. The Council appointed a Hearings Panel consisting of Trevor Hook (chair), David Oddie, Shonagh Kenderdine, Rawiri Faulkner and Sharon McGarry. Four of the five Panel members were also part of the PMP Hearings Panel. The hearing of submissions occurred on 8 to 18 November 2021.
18. The Panel has since been in deliberations on matters raised in submission and in evidence provided at the hearing. The Panel has been attempting to resolve conflicting evidence, especially in terms of the nature and management of cumulative effects from aquaculture and the future of finfish farming. This has taken time as the Panel has been exercising care in its consideration of the evidence it has received. As part of that process, the Panel has also made 15 requests for further information from submitters and the Council post the hearing of submissions to better understand the evidence.
19. The scale of the task is also significant as the Panel must determine the appropriateness of almost 600 existing marine farms. The variation proposes to establish Aquaculture Management Areas (AMAs) for existing marine farms. Each proposed AMA must be assessed by the Panel in accordance with Policy 8 and other policies of the NZCPS, having regard to the evidence it has received on the existing marine farms.
20. When it became clear that the Panel was not going to meet the statutory timeframe of two years to complete the decision making process, the Panel requested that the Manager of Environmental Policy write to the Minister for the Environment to request additional time. That request was made on 2 December 2022. At the time, the Panel advised the Manager that they would need until 28 April 2023 to complete the process. The Minister approved the request to extend the timeframe on 12 April 2023.

¹ Appointed by the Minister of Fisheries to consider a proposal to relocate six existing salmon farms in the Marlborough Sounds.

21. The Hearings Panel provided the Council with the Decision on 28 April 2023. In doing so, the Panel also made two recommendations. These recommendations are set out below.

Recommendations of the Hearing Panel

22. A number of submitters sought the withdrawal of Variations 1 and/or 1A. A withdrawal is a process by which the Council does not progress with a plan variation/change. The decision to withdraw a variation/plan change can be made at any time up until the point that appeals are lodged in respect of decisions on the variation/plan change.
23. The delegation provided by the Planning, Finance and Community Committee to the appointed Variation 1 and 1A Hearings Panel was to hear submissions to the variations and to make decisions on the Variations. Only the Council can withdraw the Variations or provisions within the Variations.

Variation 1A

24. Submitters to Variation 1A primarily highlighted the following matters in seeking the withdrawal of the Variation:
- There had been inadequate consultation on Variation 1A. This concern was raised by Marlborough's Tangata Whenua Iwi that submitted on the Variation and by Te Ohu Kaimoana²;
 - Environmental changes (e.g., rising sea water temperature) are creating unique and distinctive challenges for finfish farming in the Marlborough Sounds environment;
 - The provisions of Variation 1A did not adequately provide for current and future technological advances.
25. The Panel issued Minute 21 (dated 14 December 2021) seeking further input from Marlborough's Tangata Whenua Iwi on a process which would enable the statutory obligations or consultation in relation to Variation 1A (Finfish) to be fulfilled.
26. Only Ngai Tahu identified a potential option in this regard and that was limited to the relief sought by Ngai Tahu in evidence at the hearing.
27. The Panel reached a conclusion that the consultation with Marlborough's Tangata Whenua Iwi on Variation 1A was inadequate and recommend that Variation 1A be withdrawn. The Panel did highlight that this situation probably occurred due to the similarity between the notified provisions of Variation 1A and the earlier Marlborough Sounds Salmon Farm Relocation process. Consultation had already occurred as part of that process.
28. The recommendation for Variation 1A withdrawal is set out in the attached document.
29. As signalled in their recommendation, the Hearings Panel clearly see that there is a need for provisions managing finfish farming in Marlborough's coastal marine area. They recommend a further process occur to enable the development of those provisions involving the use of a working group consisting of Marlborough's Tangata Whenua Iwi and key stakeholders.
30. It is proposed to report options for an alternative process to a future meeting of the Environment and Planning Committee. The earliest opportunity to do so will be on 13 July 2023.

Variation 1 - Proposed AMA

31. One of the matters addressed through the provisions of Variation 1 is the relocation of marine farms in inappropriate locations to appropriate locations. AMAs were included in Variation 1 as replacement

² Te Ohu Kaimoana is the Trustee of the Maori Commercial Aquaculture Claims Settlement Act. Te Ohu Kaimoana was established to advance the interests of Māori in fishing and fisheries-related activities and to return valuable fisheries assets and funds from the Settlement to iwi organisations.

space (i.e., the farm would move from the inappropriate location to one of the AMAs provided for). In addition, the Marine Farming Association and/or individual farmers also identified potential replacement space via their submissions and in evidence at the hearing.

32. The Panel considered the proposed replacement space as part of its deliberations. Where the Panel was satisfied that the new location was in an appropriate location, the Panel has confirmed the AMA via its decision. However, there were AMA for which the Panel held reservations regarding appropriateness of the replacement space. This reservation primarily focussed on the extent to which the AMA gave effect to the policies of the NZCPS. In particular, the Panel considered there to be uncertainty regarding the nature of the benthic habitat beneath the proposed AMA and raised concerns about the potential for marine farms to be established over significant marine habitats.
33. As a result, the Panel has recommended that the Council withdraw the following AMA:
 - Marys Bay - AMA 13 of Inner Pelorus Coastal Management Unit.
 - Waihinau Bay - AMA 11 of Waitata Reach Coastal Management Unit.
34. The Panel also recommended two further AMA be withdrawn:
 - Waihinau Bay - AMA 10 of Waitata Reach Coastal Management Unit.
 - Otanerau Bay - AMA 2 of East Bay Coastal Management Unit.
35. These AMA occur where there are currently New Zealand King Salmon finfish farms. Under Variation 1A, the existing operations were not to be provided for by way of FishFish AMA. However, as both farms occurred in areas of established marine farming, the farms were to be made available to general marine farming (of bivalves and seaweeds) by way of an AMA under the provisions of Variation 1.
36. As the Panel has recommended to withdraw Variation 1A and there is a further process to occur, the Panel considered it to be inappropriate to confirm these AMA in the meantime.
37. Finally, in one location there was an AMA included in the Variation to provide for a marine farm that does not exist. The relevant coastal permit has lapsed. The Panel also recommended that this AMA be withdrawn:
 - Squally Cove - AMA 15 of the Squally Cove Coastal Management Unit.
38. The AMA recommended to be withdrawn are mapped in Attachment 2.

Decision on Variation 1

39. The decision on the remainder of Variation 1 will be publicly notified on Friday 19 May. All submitters and further submitters will be provided with a copy of the public notice. The public notice will also be included in the Marlborough Express, the Blenheim Sun, the Nelson Evening Mail, the Post and the Christchurch Press.
40. Copies of the decision will be available at the Council Blenheim offices, the Marlborough Library and the Picton Office/Library from Friday 19 May. The decision will also be able to be accessed electronically on the Council website.

Option One

41. Withdraw Variation 1A and the identified AMAs of Variation 1.

Advantages

42. The concerns raised by submitters to Variation 1A will be acknowledged.

43. There will be a further process occur to develop PMEP provisions managing finfish farming in Marlborough’s coastal marine area. That process will provide an opportunity for Marlborough’s tangata whenua iwi, Crown agencies, Te Ohu Kamoana, the industry and others in the community to be involved. Any resulting variation will be contemporary in terms of the opportunities for, and challenges to, finfish farming in Marlborough’s coastal marine area.
44. The PMEP will not contain AMA where there is uncertainty regarding the appropriateness of the coastal space for marine farming.

Disadvantages

45. In the short term, there will not be provisions in the PMEP managing finfish farming activity in Marlborough’s coastal marine area. The risks created by the absence of provisions are mitigated to an extent by the fact that there is an interim regulatory regime for consenting existing finfish farms provided by the National Environmental Standard for Marine Aquaculture.
46. Marine farms identified by the Panel to be in inappropriate areas will not have the ability to relocate to the proposed AMA if they are withdrawn.

Option Two

47. Not withdraw Variation 1A or the identified AMAs of Variation 1.

Advantages

48. There would be provisions managing finfish farming in Marlborough’s coastal marine area. However, the benefits may be limited if this management is not contemporary and fail to appropriately address opportunities for, and challenges to, finfish farming.
49. Marine farms identified by the Panel to be in inappropriate areas would have the ability to relocate to the confirmed AMA.

Disadvantages

50. Marlborough’s tangata whenua are likely to feel aggrieved that the concerns raised in submission and in evidence have not been addressed.
51. Reflecting the above concern, the decision to proceed with Variation 1A creates the risk of appeals. Those appeals may be difficult to defend given the findings of the Panel. The Panel reached their recommendation having heard the evidence of submitters.
52. If an AMA created for relocation does not give effect to the NZCPS, there is the risk that the relocated marine farm may result in adverse effects on indigenous biodiversity, natural character and/or landscape at the new location.

Attachments

- Attachment 3.1 – Recommendation of the Hearing Panel with respect to Variation 1A page [17]
- Attachment 3.2 – Proposed AMA of Variation 1 recommended to be withdrawn page [25]

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

| Summary of decision-making considerations | | | |
|--|--------------------------|--------------------------|--------------------------|
| Fit with purpose of local government | | | |
| The proposal enables a community process to consider provisions managing marine farming activity in Marlborough's coastal environment, in accordance with the NZCPS. | | | |
| Fit with Council policies and strategies | | | |
| | <i>Contributes</i> | <i>Detracts</i> | <i>Not applicable</i> |
| LTP / Annual Plan | <input type="checkbox"/> | <input type="checkbox"/> | ✓ |
| Financial Strategy | <input type="checkbox"/> | <input type="checkbox"/> | ✓ |
| Infrastructure Strategy | <input type="checkbox"/> | <input type="checkbox"/> | ✓ |
| Social well-being | ✓ | <input type="checkbox"/> | <input type="checkbox"/> |
| Economic development | ✓ | <input type="checkbox"/> | <input type="checkbox"/> |
| Environment & RMA Plans | ✓ | <input type="checkbox"/> | <input type="checkbox"/> |
| Arts & Culture | <input type="checkbox"/> | <input type="checkbox"/> | ✓ |
| 3 Waters | <input type="checkbox"/> | <input type="checkbox"/> | ✓ |
| Land transport | <input type="checkbox"/> | <input type="checkbox"/> | ✓ |
| Parks and reserves | <input type="checkbox"/> | <input type="checkbox"/> | ✓ |
| Financial considerations | | | |
| The withdrawal of Variation 1A will result in the need to run an additional process to develop PMEP provisions to manage finfish farming and to consider locations to relocate marine farms currently in inappropriate locations. Opportunities to fund this additional work are currently being explored. For example, the Council has access to the Aquaculture Planning Fund. | | | |
| Significance | | | |
| The decision is considered of low significance under Council's Significance and Engagement Policy. | | | |
| Engagement | | | |
| The withdrawal of Variation 1A will result in the need to run an additional process to develop PMEP provisions to manage finfish farming. This will trigger further engagement with Marlborough's tangata whenua iwi, Te Ohu Kamoana, Crown agencies, the industry and others in the community. | | | |
| Risks: Legal / Health & Safety etc | | | |
| The options carry risk in terms of process. Those risks have been set out in the respective disadvantages for each option. | | | |
| Climate Change Implications | | | |
| Although there are no known climate change implications to this decision, the decision is in itself partly in response to the challenges presented by warming sea temperatures caused by climate change. | | | |

Recommendation of the Hearing Panel with respect to Variation 1A

**Report and Recommendation
Variation 1A: Finfish Farming**

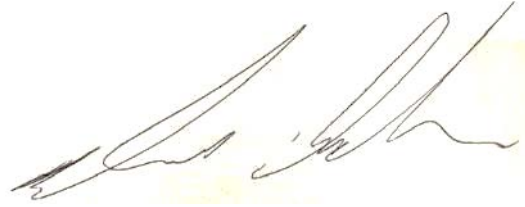
Hearing dates: 9 – 11 and 15 – 18 November 2021

Commissioners: Trevor Hook
David Oddie
Shonagh Kenderdine
Rawiri Faulkner
Sharon McGarry

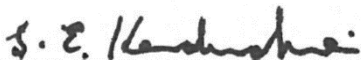
Date of report: 28 April 2023



Trevor Hook (Chairperson)



David Oddie



Shonagh Kenderdine



Rawiri Faulkner



Sharon McGarry

Dated this 28 day of April 2023

Introduction to Report and Recommendation

Delegation

1. Pursuant to the Resource Management Act 1991 (**RMA**), the Marlborough District Council's (**the Council**) Planning, Finance and Community Committee delegated³ the necessary powers and functions to the Hearing Panel to hear submissions and make decisions on Proposed Marlborough Environment Plan (**PMEP**) Variation 1: Marine Farming and Variation 1A: Finfish Farming. The Committee resolved to appoint a hearings panel comprising one councillor, Councillor David Oddie, and four independent commissioners, Mr Trevor Hook, Mrs Shonagh Kenderdine, Mr Rawiri Faulkner and Ms Sharon McGarry. The Committee appointed Commissioner Hook as Chair of the Hearing Panel.
2. This is the report and recommendation of the appointed Hearing Panel ('the Panel') to the Council for Variation 1A.
3. The nature of the delegation has influenced the way the Panel has responded to submissions to Variation 1A. This matter is traversed later in the report.

Hearing Panel Minutes

4. Before the hearing and following the adjournment, the Panel issued a number of minutes addressing procedural matters and requesting further information on substantive matters. A record of these minutes and responses received were made available via the Council's website in a timely manner. Where necessary the Panel references the responses to some of these minutes. The Panel thanks the parties for their prompt responses and their efforts after the adjournment to provide the information requested.

Purpose of Variations

5. Variation 1 and 1A were publicly notified on 2 December 2020. The purpose of Variation 1 and 1A is to insert objectives, policies, rules and methods into the PMEP to sustainably manage effects of marine farming and finfish farming within the coastal marine area (**CMA**) of the Marlborough Region to **give effect** to the objectives and policies of the New Zealand Coastal Policy Statement 2010 (**NZCPS**) and Part 2 of the RMA.
6. This Variations are part of the Council's strategic planning required under Policy 7 and Policy 8 of the NZCPS to identify areas where marine farming activities are inappropriate and where values

³ At a meeting held on 18 March 2020, under Section 34A of the RMA. At this date, Mr Oddie, in his role as a as a Marlborough District Council Councillor, was appointed to the Hearings Panel. Councillor Oddie did not seek re-election at the 2022 local government elections. At its meeting on 22 September 2022, the Council appointed Mr Oddie as an Independent Commissioner to the Panel to enable him to complete the process of making a decision on Variation 1 with the remainder of the Hearings Panel.

identified in the PMEP are under threat or at significant risk from adverse cumulative effects. Variation 1 and 1A are to give effect to NZCPS Policy 8 which requires recognition of the significant existing and potential contribution of aquaculture to the social, economic and cultural well-being of people and communities; and gives certainty to the community and the marine farming industry that appropriate marine farming activity can continue for the life of the PMEP. We have focused our decisions on the outcomes to be achieved and what is sought to be recognised and provided for, and the values that must be protected and preserved under the provisions of the NZCPS.

7. Objective 3 of the NZCPS requires the Panel to take into account the principles of Te Tiriti o Waitangi/Treaty of Waitangi and recognise the role of Marlborough's Tangata Whenua as kaitiaki.
8. The Panel also acknowledges the need to integrate Variation 1 and 1A with the provisions of the PMEP.

The Context for Variation 1A

9. As set out in the relevant Section 32 Report and in the Section 42A Report of Mr Hawes, the preparation of Variation 1A followed a different process to Variation 1. Variation 1A was influenced by the proposal by the Minister of Primary Industries (the Minister) to amend the provisions of the Marlborough Sounds Resource Management Plan to relocate salmon farms in the Marlborough Sounds.⁴
10. After hearing the submissions, the Marlborough Sounds Salmon Farm Relocation Advisory Panel recommended to the Minister that the existing salmon farms at Waihinau, Otanerau and Ruakaka be relocated to Tio Point, Horseshoe Bay and Richmond Bay. By comparing these recommendations with the notified provisions of Variation 1A, the Panel can see that, in spatial terms at least, the influence of the relocation process was significant.
11. Limited consultation was undertaken on Variation 1A. Likely that was because of the similarity in outcome with the earlier relocation process and took into account the consultation that had already occurred as part of that process. The consultation in the relocation process included the opportunity to make submissions, the public hearing of submissions and the meeting of expert witnesses.

⁴ This proposal was made under Section 360A of the RMA. Full details on the relocation process can be found in the Section 42A Report of Mr Hawes or at www.mpi.govt.nz/consultations/marlborough-salmon-relocation.

RMA Section 42A Reports

12. The Panel had the benefit of several reports prepared under Section 42A of the RMA for both Variation 1 and 1A:
13. The Section 42A reports most relevant to this recommendation are:
 - (a) *'Variation 1: Marine Farming and Variation 1A: Finfish farming to the Proposed Marlborough Environment Plan - Development of Variation 1 and 1A - Section 42A Hearings Report'* (dated 8 October 2021) prepared by Pere Hawes, Manager, Environmental Policy, Marlborough District Council; and
 - (b) *'Variation 1A: Finfish Farming – Report on Submissions and Further Submissions to the Proposed Marlborough Environment Plan – Section 42A Hearings Report'* (dated 8 October 2021) prepared by Helen Marr, Debbie Donaldson and Lily Campbell, Kahu Consultants; and
 - (c) *'Variation 1A: Finfish Farming to the Proposed Marlborough Environment Plan – End of Hearing Report'* (dated 8 February 2022) prepared by Helen Marr, Debbie Donaldson and Lily Campbell, Kahu Consultants;

Engagement and consultation with Marlborough's Tangata Whenua Iwi

14. The substantive decision for Variation 1 sets out the background to engagement with Marlborough's Tangata Whenua Iwi. The Council approached the iwi authorities to participate in the plan development of Variation 1 and 1A. Te Ohu Kaimoana Trust Limited ('Te Ohu Kaimoana') were also approached for comment and feedback.
15. Submissions from Ngāi Tahu, Ngāti Apa ki te Rā Tō Charitable Trust, Koata Limited, Te Rūnanga o Toa Rangatira and Te Ātiawa Manawhenua Ki Te Tau Ihu Trust sought Variation 1 and 1A be put on hold, not proceed or be withdrawn. Concerns were expressed that the Council had not discharged its statutory consultation duties and that the requirements of Schedule 1 of the RMA had not been met.
16. Te Ohu Kaimoana submitted the list of consultees in the Section 32 report omitted Ngāti Tama (through the Ngāti Tama ki te Waipounamu Trust), Ngāi Tahu, Te Runanga o Toa Rangatira Incorporated and Ngāti Rarua Iwi Trust as Iwi Aquaculture Organisations established under the Settlement Act.
17. The Panel issued Minute 21 (dated 14 December 2021) seeking further input from Marlborough's Tangata Whenua Iwi on a process which would enable the statutory obligations or consultation in relation to Variation 1A (Finfish) to be fulfilled.

18. In response to Minute 21, Ngāi Tahu, Ngāi Tahu Seafood Limited⁵ stated that from a pragmatic point of view, the package of amendments sought through the hearings would provide an interim solution to Variation 1 and sought the Panel proceed to a decision. Te Ohu Kaimoana sought a more collaborative approach be established with iwi.
19. Te Rūnanga o Toa Rangatira⁶ stated Variation 1 and 1A should both be withdrawn because the Council had not performed their Mana Whenua engagement duties and Variation 1 cannot be separated. The response requested the Council restart the process to enable iwi to formulate the way they would like to be engaged by the Council to work together on the provisions. It noted the Section 32 analysis had not assessed how their kaitiaki role would be impacted by Variation 1.

Evaluation

20. The Panel recognises that although clearly aligned, there were two separate consultation processes for Variation 1 and 1A. The Panel considers the consultation undertaken by the Council for Variation 1 was appropriate and engagement was with iwi authorities in accordance with Schedule 1 of the RMA.
21. It appears some of Marlborough's Tangata Whenua Iwi chose not to engage in consultation with the Council regarding Variation 1.
22. However, the Panel considers the consultation with Marlborough's Tangata Whenua Iwi on Variation 1A was inadequate.

Creation of a 'policy vacuum'

23. In their end of hearing Section 42A report⁷, the authors identified 4 potential options moving forward to address the concerns raised in submissions. They considered that any responses to Minute 21 could be incorporated into option 3 (removal of Variation 1A spatial component) or option 4 (removal of Variation 1A spatial component and policy amendments)⁸
24. Option 2 set out their consideration of withdrawing Variation 1A. The authors advised the Panel that the removal of Variation 1A would create a 'policy vacuum' whereby potentially making finfish farming a prohibited activity. They further noted that withdrawing Variation 1A would be inefficient

⁵ Memorandum of Counsel dated 13 June 2022.

⁶ Letter dated 14 June 2022.

⁷ *Variation 1A: Finfish Farming to the Proposed Marlborough Environment Plan – End of Hearing Report* (dated 8 February 2022) prepared by Helen Marr, Debbie Donaldson and Lily Campbell, Kahu Consultants

⁸ *Variation 1A: Finfish Farming to the Proposed Marlborough Environment Plan – End of Hearing Report*, para 27

and ineffective to achieve the purpose of the Act⁹ and would create unnecessary uncertainty for existing finfish farms.

Evaluation

25. The Panel notes the concern of the Section 42A report authors regarding a potential policy vacuum due to the withdrawal of Variation 1A. However, the Panel consider that the existing objectives and policies of the PMEP provide sufficient policy guidance to support decision making processes. In addition, National Environmental Standards for Marine Aquaculture (NES-MA) provides the regulatory framework for consenting existing finfish farms in the Marlborough Sounds.
26. Notwithstanding this finding, the Panel does agree that finfish specific provisions are desirable to assist the management of new and existing finfish farms. See below for the Panel's recommendations for a future process.

Technological and environmental change

27. Some submitters noted that environmental changes created unique and distinctive challenges for finfish farming in the Marlborough Sounds environment. The most significant challenge being water temperature rise and the impact this has on finfish mortality rates.
28. There was also concern raised that the current finfish provisions in Variation 1A did not adequately provide for current and future technological advances. There had been significant advances since the review of the plan had begun, and the plan needed to be able to adapt to future technological advances.

Evaluation

29. The Panel considers more work is required to ensure the impact of climate change and future technology advances are adequately provided for in Variation 1A.

Collaborative approaches to the development of finfish provisions

30. As noted above, several submitters requested the withdrawal of Variation 1A. Te Ohu Kaimoana, Te Rūnanga o Ngāi Tahu and other iwi submitters asked Council to establish a working group, which includes Marlborough's Tangata Whenua Iwi, to redraft the variations. Submitters sought meaningful engagement with Marlborough iwi and more work on accommodating iwi aspirations into the PMEP. A number of Marlborough's Tangata Whenua Iwi sought a more collaborative approach to the development of finfish provisions¹⁰.

⁹ Variation 1A: *Finfish Farming to the Proposed Marlborough Environment Plan – End of Hearing Report*, para 32

¹⁰ Variation 1A: *Finfish Farming to the Proposed Marlborough Environment Plan – End of Hearing Report*, para 31

Evaluation

31. As noted above, the Panel considers that consultation on Variation 1A was inadequate.
32. The Panel consider a more collaborative approach involving Marlborough's Tangata Whenua Iwi would be beneficial to the development of Variation 1A.
33. The Panel encourages Council to establish a working group consisting of Marlborough's Tangata Whenua Iwi and other key stakeholders to develop finfish farming provisions.

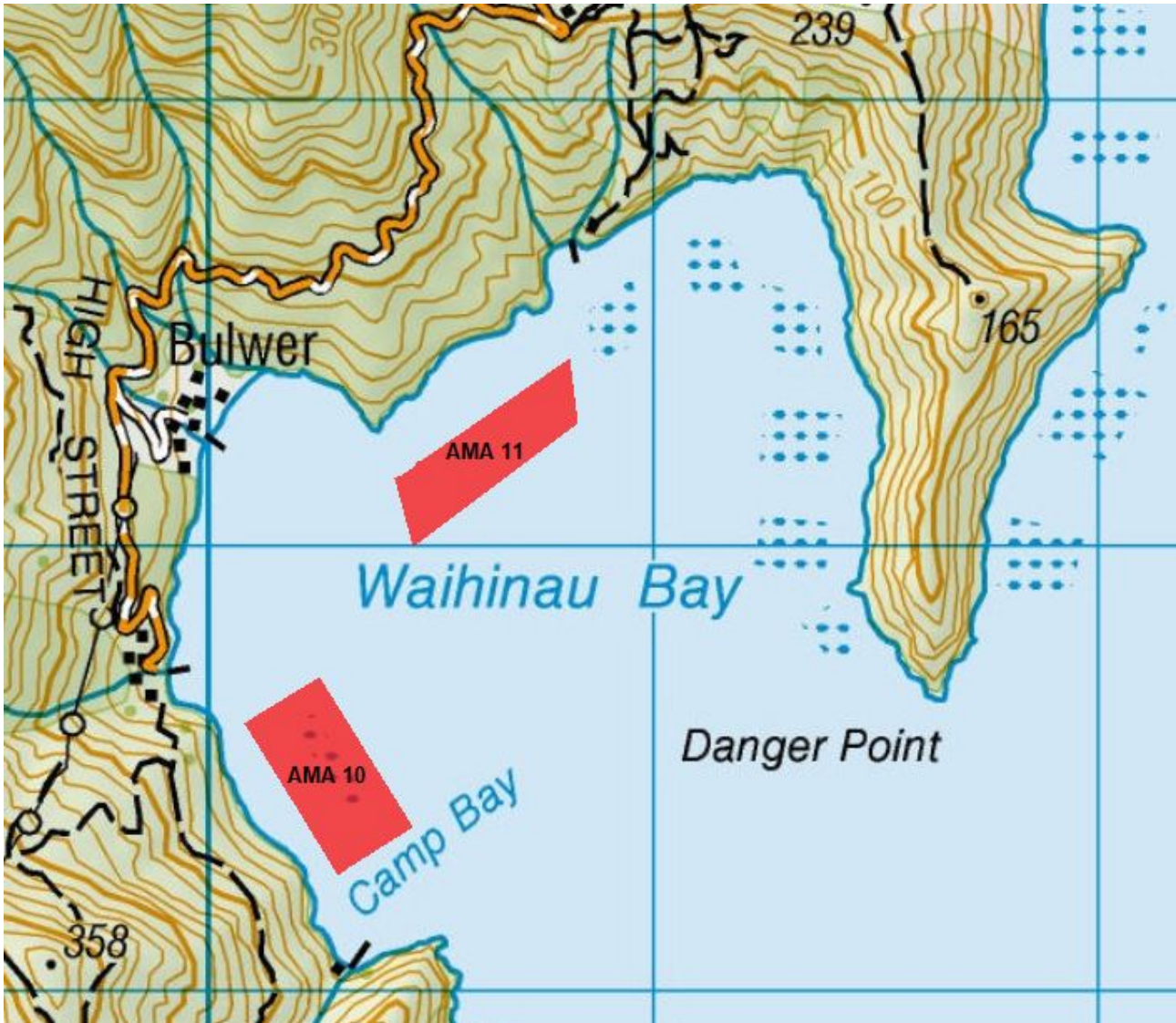
Recommendation

34. For the reasons set out in this report, the Panel recommends that Council formally withdraw Variation 1A. ¹¹

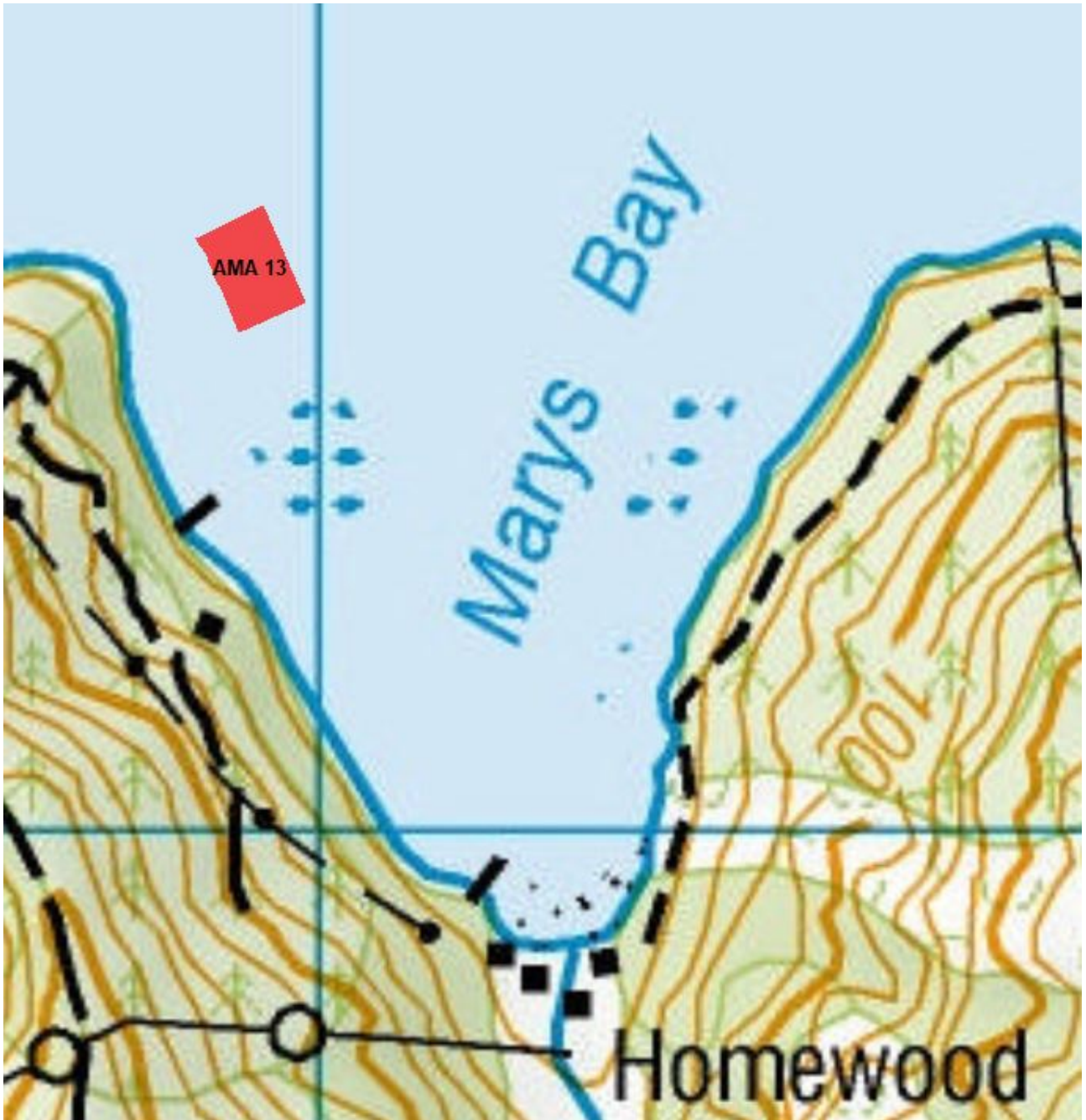
¹¹ The Panel's delegation applies to the hearing of submissions and the making of a decision on Variations 1 and 1A only. The Panel does not have the delegated authority to withdraw Variation 1A under Clause 8D of the First Schedule.

Proposed AMA recommended to be withdrawn.

Waihinau Bay



Marys Bay



Otanerau Bay

