IN THE ENVIRONMENT COURT OF NEW ZEALAND **ENVC-2020-CHC-**
CHRISTCHURCH REGISTRY

I TE KŌTI TAIAO O AOTEAROA
ŌTAUTAHI ROHE

IN THE MATTER of the Resource Management Act 1991 (the Act)

AND

IN THE MATTER of an appeal under Clause 14, Schedule 1 of the Act in relation to a decision on the proposed Marlborough Environment Plan

BETWEEN **KEVIN CHARLES DAVID OLDHAM** and **LYNETTE RAYWIN ANNE OLDHAM as trustees in RED SKY TRUST** a family tust at 42 Robley Crescent, Glendowie, Auckland, New Zealand, and

FRANK THOMAS BURNS, KIRSTEN MARGARET BURNS, ABIGAIL JENNIFER JEAN BURNS and **OLIVIA MEGAN ROSE BURNS** of 200 Oakwood Lane, Blenheim, and

COLIN RONALD NORTON of 237 Westdale Road, Richmond, and **TOM RONALD NORTON** of 11 Dunbeath Street, Blenheim, and

RICHARD ALLAN HALL and **RITA SANDRA HALL** of 42 Sussex Street, Picton

Appellants

NOTICE OF APPEAL
Dated this 8th day of May 2020

Next Event Date:
Judicial Officer:

AND **MARLBOROUGH DISTRICT COUNCIL**

Respondent

Notice of Appeal to Environment Court against decision on a proposed Plan

Clause 14(1) of Schedule 1, Resource Management Act 1991

To: The Registrar
Environment Court
Christchurch

Name of Appellants and Decision Maker

1 The names of the Appellants (referred to collectively as "Appellants") are:

(a) Kevin Charles David Oldham and Lynette Raywin Anne Oldham as trustees In Red Sky Trust ("RST"), of Auckland, and

(b) Frank Thomas Burns, Kirsten Margaret Burns, Abigail Jennifer Jean Burns and Olivia Megan Rose Burns of Blenheim, and

(c) Colin Ronald Norton and Tom Ronald Norton, of Nelson and Blenheim respectively, and

(d) Richard Allan Hall and Rita Sandra Hall, of Picton.

2 The Appellants appeal against part of the decision of the Marlborough District Council ("MDC") on the proposed Marlborough Environment Plan ("the proposed Plan").

3 Red Sky Trust is a family trust with Lynette and Kevin Oldham as primary beneficiaries. The trust owns two marine farms, both in the Marlborough Sounds, one in Forsyth Bay and one in Onauku Bay. Lynette is of Te Ātiawa and Ngāi Tahu descent.

4 Frank and Kirsten Burns are directors of Abioli Limited which has interests in two marine farms in Onauku Bay. Frank, Abigail and Olivia are of Te Ātiawa and Ngāi Tahu descent.

5 Colin and Tom Norton are trustees of the Tom Norton Family Trust which owns a half share of a marine farm in Onauku Bay. Colin and Tom are of Te Ātiawa and Ngāi Tahu descent.

6 Richard Allan Hall and Rita Sandra Hall own a marine farm in Onauku Bay. Rita is of Te Ātiawa descent and is a shareholder of land in Onauku Bay.

7 The Appellants each made submissions on the proposed Plan. Each supported the submissions of the Marine Farming Association and Aquaculture New Zealand in their entirety.

Trade Competition

8 The Appellants are not trade competitors for the purposes of s 308D of the Act.

Date of Decision appealed against

9 The reasons for the decision were released from 21 February 2020, with the tracked changes decision version of the proposed Plan being released on 3 March 2020.

Date on which Notice of Decision was received by Appellant

10 The Appellants received notice of the decision on 21 February and 3 March 2020.

The Decision and Reasons

11 While the Appellants are generally supportive of the proposed Plan provisions, they consider that some change is required to ensure that the proposed Plan:

(a) Promotes the purpose of the Act, being the sustainable management of resources (section 5);

(b) Has particular regard to kaitiakitanga (section 7(a)), and takes into account the principles of the Treaty of Waitangi (section 8);

(c) Is not contrary to Part 2 and other provisions of the Act;

(d) Is not contrary to the New Zealand Coastal Policy Statement 2010;

(e) Is not contrary to other relevant planning documents; and

(f) Will meet the reasonably foreseeable needs of future generations.

12 In particular, and without limiting the generality of the above paragraph, the parts of the decision that the Appellants are appealing and the reasons for the appeal are as follows:

Indigenous Biodiversity

13 The Appellants appeal:

(a) The map titled "Queen Charlotte Sound Hectors Dolphin" in the Ecologically Significant Marine Sites section of Volume 4.

14 The reasons for appeal are as follows:

(a) The inclusion of such a map is not consistent with the best available science and the boundaries are not consistent with the scientific evidence.

(b) The sole reference to this map in the proposed Plan is at Method of implementation 8.M.4. The map is included on the page for Ecologically Significant Marine Sites (ESMS) maps in the online track-changed Decisions Version of the proposed Plan. This is inconsistent with the definition of ESMS,[1] which only applies to ESMS maps 1 – 16. This leaves this map's purpose and status unclear in relation to Policies 8.1.1, 8.3.1 (b) and 8.3.2 (a).

(c) The map has the potential to undermine the ability of the iwi and iwi members to sustain their ancestral relationships with the land and waters of Arapaoa Island through ongoing usage.

(d) The underlying methodology and effects of the map are inconsistent with RPS Objectives 3.1, 3.2, 3.3, 3.4 and 3.6 relating to ongoing use of the waters by iwi and by iwi members to sustain themselves and relating to their on-going relationship with the ancestral lands and waters of their rohe.

Landscape and Natural Character

15 The Appellants appeal:

(a) The extent of mapping of Very High Natural Character and Outstanding Natural Features and Landscapes in Volume 4 of the proposed Plan with respect to East Bay.

(b) The methodology underpinning the above mapping.

(c) The Landscape Schedule of Values at Appendix 1 and the Coastal Natural Character Schedule of Values at Appendix 2, Volume 3.

(d) The lack of recognition of marine farms as part of the existing environment and as being consistent with the values of the Marlborough Sounds in the above mapping and Appendices.

(e) The lack of recognition of the importance of marine farms to iwi and to iwi members.

[1] Chapter 25 of Volume 2.

16 The reasons for the appeal include:

(a) Boundaries of Outstanding Natural Features (ONF), Outstanding Natural Landscape (ONL) and areas with natural character designations should be distinct, legible and coherent to the community.

(b) The proposed ONFL and natural character designations are inconsistent with the landscape and natural character of Onauku Bay.

(c) Statements under the *Evaluation* heading for Outer Sounds Landscape 04 *Tory Channel/Kura Te Au* in Appendix 1 of Volume 3 relating to East Bay and Onauku Bay are inappropriate as East Bay and Onauku Bay are not located in Landscape 04.

(d) Statements under the Naturalness and Features headings, and Landscape values for Outer Sounds Landscape 05 *Outer Queen Charlotte Sound/ Tōtaranui*, in Appendix 1 of Volume 3 are not consistent with the best available science.

(e) Coastal Area D1 in Appendix 2 of Volume 3 lumps substantially unmodified and substantially modified areas into a single large area.

(f) Appendix 2 of Volume 3 is inconsistent in its recording and responses to the effects of human modifications in East Bay and Onauku Bay compared to adjacent areas.

(g) The underlying methodology and effects of the landscape and natural character designations are inconsistent with RPS Objectives 3.1, 3.2, 3.3, 3.4 and 3.6 relating to ongoing use of the waters by iwi and by iwi members to sustain themselves and relating to their on-going relationship with the ancestral lands and waters of their rohe.

(h) By drawing “bubbles” around areas with marine farms the landscape and natural character maps don’t accurately represent the place of marine farms within these landscapes nor their effects on natural character and has the potential to undermine the ability of iwi and iwi members to sustain their ancestral relationships with the land and waters of their rohe through ongoing usage over the long term.

(i) The statement under the associative landscape value heading, “Ongoing cultural occupation, traditions and significance occur in this area”, under area 05 *Outer Queen Charlotte Sound/ Tōtaranui*, in Appendix 1 of Volume 3, does not accurately or adequately articulate all of the cultural

values for this area. Those values extend to food gathering, commercial interests (which in turn sustain the iwi), and the mana associated with sharing kaimoana that has been harvested using the best available technology throughout history.

(j) The statement under the Additional Comments and noted modifications heading, "Excludes Otanerau Bay and the eastern sector of East Bay, which have a relatively high concentration of marine farms", under Subarea D1: Outer Queen Charlotte /Tōtaranui Sound in Appendix 2 of Volume 3, does not accurately represent the place of marine farms within these landscapes nor the effects of marine farming on natural character.

Relief Sought

17 The Appellants seek the following relief:

(a) Amendments to the proposed Plan as set out in **Schedule A** to this notice; and

(b) Any necessary consequential amendments; or

(c) Other equivalent relief.

18 The Appellants agree to participate in mediation or other alternative dispute resolution of the proceeding.

Attached Documents

19 The following documents are **attached** to this notice:

(a) **Schedule A** as referred to above;

(b) Copies of the Appellant's submissions (**Schedule B)**;

(c) A copy of the relevant parts of the decision at **Schedule C**; and

(d) Persons to be served with this notice (**Schedule D**).

20 A copy of this notice will be lodged electronically with the Environment Court and the Marlborough District Council in accordance with the updated and amended directions in the Court's Minute of 15 April 2020. The Appellants note that the requirements to serve a copy of this notice on other parties and provide a list of names to the Registrar have been waived.

_____

Lynette and Kevin Oldham, Trustees of Red Sky Trust
Appellants

Address for service of the Appellants

42 Robley Crescent, Glendowie, Auckland 1071.

Telephone: 021 22 55 001

E-mail: kevin.oldham@gmail.com

Contact person: Kevin Oldham

Schedule A – Relief Sought

Biodiversity

(a) either remove Onauku Bay from the overlay on the map titled "Queen Charlotte Sound Hector Dolphin" in the *Ecologically Significant Marine Sites* section of Volume 4, while at the same time moving this map to a new "Marine Mammal Distribution Maps" section of Volume 4, or

(b) remove the map in its entirety.

Landscape

1 In Volume 4 remove the waters and land of Onauku Bay up to the enclosing ridgeline from the Outstanding Natural Features and Landscape overlay in Landscape Map 5, or revise the mapping in Volume 4 and associated landscape values tables in Appendix 1 of Volume 3 to include an express statement[2] recognising existing marine farms as part of the existing environment and as being consistent with the values of the Marlborough Sounds.

2 In Appendix 1 of Volume 3, in area 04 Tory Channel/Kura Te Au remove both references to "East Bay".

3 In Appendix 1 of Volume 3, for Outer Sounds Landscape 05 *Outer Queen Charlotte Sound/ Tōtaranui*, make the following changes:

Heading	**Relief Sought**
Biophysical	• remove "The waters around East Bay have nationally significant ecological values, particularly for Hector's dolphin."
Associative	• Add a further bullet point as follows: "Cultural values including food gathering, commercial interests (which in turn sustain the iwi and iwi members), and the mana associated with sharing kaimoana that has been harvested using the best available technology throughout history."

Natural Character

4 In the Natural Character Rating Map 4 of Volume 4,:

a) remove the "Very High" natural character classification from all of the waters in central and eastern waters of Onauku Bay as shown in attached Figure "A".

[2] Consistent with the approach take in the Auckland Unitary Plan at Chapter L, Schedule 7.

b) for all land from the coastline up to the enclosing ridgeline to the east of Onauku Bay change the natural character classification to “High”.

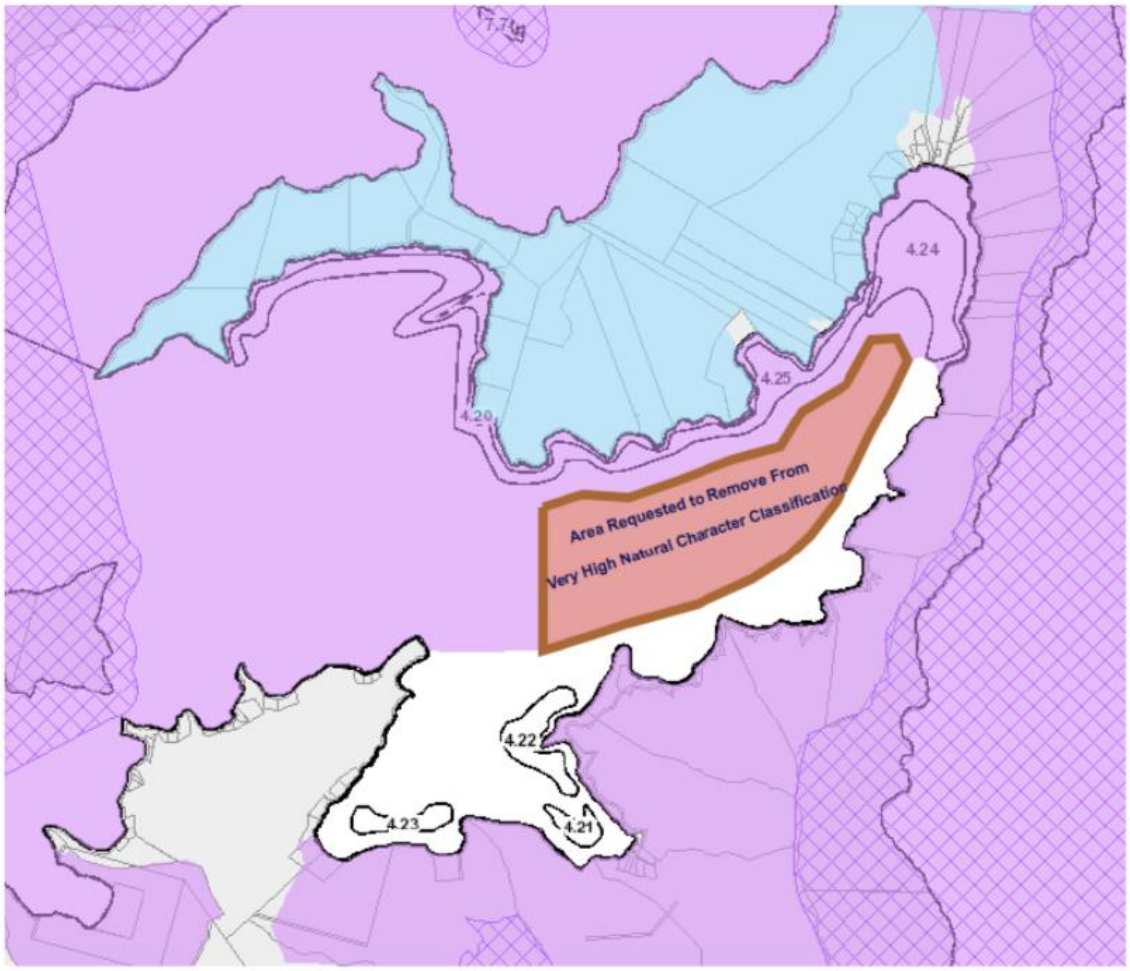
5 In Appendix 2 of Volume 3, make the following changes to the table in relation to Subarea D1: *Outer Queen Charlotte /Tōtaranui Sound:*

Heading	**Relief Sought**
Key Characteristics	• remove the words “Largely unmodified and” from the first sentence, and • add the words “Some of” to the beginning of the new sentence at the end of the first paragraph.
Additional Comments and noted modifications	• replace text with: “Excludes areas around Motuara Island, offshore from Ship’s Cove, and East Bay which have been commercially dredged for scallops. Otanerau Bay and Onauku Bay contain some marine farms.”

6 In Appendix 2 of Volume 3, in *Coastal Terrestrial Area 4: Arapaoa* make the following changes to subarea *4B : Remaining areas of Arapaoa* :

Heading	**Relief Sought**
Key Characteristics	• delete the word “very” from the second paragraph, and
Additional Comments and noted modifications	• add new sentence to end of first paragraph “Powerline, jetties and buildings associated with west facing slopes of Onauku Bay.”

Figure "A" – Requested Relief: Boundary of Very High Natural Character Classification over Waters of Onauku Bay



Note: area of removal is shown schematically only. Boundaries are:

- North boundary – 100m off overlay 4.25
- East boundary – 100m off overlay 4.24
- South boundary – southern edge of MEP proposed very high overlay
- West boundary – line due north from Matiere Point

Note to appellant

You may appeal only if—

you referred in your submission or further submission to the provision or matter that is the subject of your appeal; and

in the case of a decision relating to a proposed policy statement or plan (as opposed to a variation or change), your appeal does not seek withdrawal of the proposed policy statement or plan as a whole.

Your right to appeal may be limited by the trade competition provisions in Part 11A of the Resource Management Act 1991.

The Environment Court, when hearing an appeal relating to a matter included in a document under section 55(2B), may consider only the question of law raised.

You must lodge the original and 1 copy of this notice with the Environment Court within 30 working days of being served with notice of the decision to be appealed. The notice must be signed by you or on your behalf. You must pay the filing fee required by regulation 35 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003.

You must serve a copy of this notice on the local authority that made the decision and on the Minister of Conservation (if the appeal is on a regional coastal plan), within 30 working days of being served with a notice of the decision.

You must also serve a copy of this notice on every person who made a submission to which the appeal relates within 5 working days after the notice is lodged with the Environment Court.

Within 10 working days after lodging this notice, you must give written notice to the Registrar of the Environment Court of the name, address, and date of service for each person served with this notice.

However, you may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (*see* form 38).

How to obtain copies of documents relating to appeal

If this appeal is being served on you in hardcopy, the copy of this notice served on you does not attach a copy of the appellant's submission or part of the decision appealed. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

Schedule B: Submissions of the Appellants

42 Robley Crescent
Glendowie
Auckland

30 August 2016

Submission by:
- Lynette Raywin Anne Oldham
- Kevin Charles David Oldham

021 22 55 001
lynette.oldham@gmail.com

Dear Sir/Madam

Submission on Proposed Marlborough Environment Plan

1. Introduction

Thank you for the opportunity to submit on the proposed Marlborough Environment Plan (MEP).

In making this submission we recognise the scale of the undertaking and the effort that has been put into the plan. We wish the Council well in its deliberations. Having said that, we do have a number of concerns and areas where we respectfully request changes. We confirm that there is no trade competition advantage to be gained through this submission.

2. Our Background

Lynette is of Te Atiawa and Ngai Tahu heritage. Her family have always lived from the sea. In recent times Lynette's forebears, the Nortons were whalers, based at the village of Te Awaiti on Arapawa Island. The Nortons lived from that pursuit for generations. Lynette's uncle Tommy is one of the last living whalers. In a reprise of his former life, he occasionally returns to the old lookout, sighting whales migrating through Cook Strait, for DoC.

Norton ancestors have been on Arapawa Island since pre-European times. The Nortons own land at Te Awaiti to the present day. Many of Lynette's ancestors and relatives are buried in the Te Awaiti urupa, the only legal cemetery on Arapawa Island.

Maori living at Te Awaiti ranged widely and Arapawa Island has been within our rohe since pre-European times. East Bay is on the opposite side of the island from Te Awaiti, less than 5 km to the north-east by foot.

Many years ago we applied for 4 marine farms in our East Bay rohe and were declined by MDC on all of them. Around that time we were successful in applying for a marine farm in Forsyth Bay, being the site known to MDC as 8572. We have since obtained fisheries permits and have commenced farming mussels.

We sell our Forsyth mussels to Kono, for processing and on-sale. Kono is a Maori incorporation that is not only commercially successful but, in doing so helps to showcase

Maori enterprise. In developing and running our mussel farms we are not only expressing our own personal enterprise, but are continuing the Norton hapu's tradition of making a living from the sustainable resources of the sea in this locality.

This commercial activity creates wider employment in Marlborough and contributes to the economic benefits derived from the aquaculture industry as a whole. Those benefits can be expected to increase over time, as higher value species are brought into mainstream production.

In early 2016 we expressed our attachment to our Arapawa rohe, through buying an existing marine farm in Onauku Bay, East Bay. The farm, known to MDC as site 8604, is currently leased to Sealords. Both of our farms are owned and operated by our family trust, Red Sky Trust.

In addition to our own direct interests, Lynette's Norton whanau: including an uncle, cousin and brother have collectively and separately developed, traded and bought marine farms in Onauku Bay. The wider Te Atiawa iwi is also involved in marine farming in East Bay which lies within our iwi's rohe.

As submitters we are concerned that a number of aspects of the MEP threaten our whanau and hapu tradition of gaining a sustainable livelihood from the sea. This tradition is expressed in part through our collective involvement in aquaculture. Adverse effects of the MEP on Te Atiawa aquaculture activities, would diminish the mana of our iwi, and reduce the collective ability of our iwi to provide for the wellbeing of current and future generations.

With the welfare of our whanau, hapu and iwi in mind, our submissions relating to the inner part of East Bay are not limited to our farm site.

3. Our Overall Concerns with the MEP and Volume 4 Overlay Maps

We are concerned that a series of classifications in the MEP Volume 4 maps overlay threaten marine farming activities, through *enhanced sensitivity*. By *enhanced sensitivity* we are referring to areas of land and water where the attributed value classification has been enhanced, beyond the existing classification in the Marlborough Sounds Resource Management Plan (MSRMP) and beyond what is appropriate and justified. We fear that, as a result of enhanced sensitivity, we will not be able to renew resource consents for our aquaculture activities, due to perceived adverse effects.

As an example of our concerns, the MEP proposes an 'avoid' approach to dealing with adverse effects from activities on outstanding natural features and landscapes (ONFL). An avoid approach means that effects cannot be mitigated. This policy may have the practical effect of prohibiting the reconsenting of marine farms near areas classified as ONFL.

The proposed enhanced sensitivity classifications also affect the ability of Lynette's whanau: uncle, cousin and brother to derive a sustainable living from the biophysical resources of our rohe.

4. Absence of MEP Aquaculture Section

This part of my submission relates to the absence of an aquaculture section in the MEP.

I oppose the absence of the Aquaculture section from the Proposed MEP.

My reasons for opposing this part of the MEP.

The absence of the aquaculture section from the MEP denies us the opportunity to assess what other aspects of the MEP might be relevant to our aquaculture activities. This puts us at a severe disadvantage, as we have to guess what the aquaculture rules might be when assessing each MEP instrument. This results in an inequitable treatment of marine farming, and hence for tangata whenua who have chosen to continue their association with the sustainable use of marine resources through marine farming.

This staggered timetable for the MEP production denies us the opportunity to participate equally and fully in the MEP process as we cannot know what the effects on our existing and future aquaculture activities will be. As such the MEP process is unjust and is not in accordance with Part 2 of the Resource Management Act 1991 (the "Act"). In addition the absence of the aquaculture section of the MEP is contrary to Policy 11 of the New Zealand Coastal Policy Statement.

The decision I seek from the Council is: That the MEP is put on hold until the aquaculture section is published and brought onto the same timetable as the remainder of the MEP.

5. Support for Submissions by Others

This part of my submission relates to various aspects of the MEP as specified in the submissions cited below.

I oppose those parts of the Proposed MEP as opposed in submissions of the parties listed below. **I support** those parts of the Proposed MEP as supported in the submissions of the parties listed below.

My reasons for opposing and supporting these parts of the MEP:
We support the submissions of the following parties:

- Aquaculture New Zealand
- The Marine Farming Association
- Frank Burns
- Colin Norton
- Te Aitawa iwi, including Totaranui Limited (marine farming arm of Te Atiawa iwi)

As discussed in the preceding sections, the absence of the aquaculture section to the MEP places us in the impossible position of guessing which policies may impact on our activities. This is beyond our capability at this time. For this reason we are relying on the insights and professional advice taken by the above submitters. Accordingly we adopt their comments and seek the same relief on each matter raised in their submissions.

The decision I seek from the Council is: We seek the same decisions from Council as is sought for each matter raised in the above submissions.

6. Volume 4 – Maps – Overlays - East Bay

6.1. Landscape, and

- Appendix 2, and
- Section 32 *Report 7 – Landscape,* and supporting reports.

This part of my submission relates to the proposed ONFL landscape classification of the south-eastern side of inner East Bay.

I oppose this part of the Proposed MEP.

My reasons for opposing this part of the MEP:
The overlay map classifies the slopes along the southern shores of Onauku Bay, East Bay and some of the waters of Onauku Bay as having outstanding features and natural landscapes (ONFL). In the existing Marlborough Sounds Resource Management Plan (MSRMP) only the Cook Strait side of this part of Arapawa Island has previously been classified as having outstanding natural landscape features. We consider that the classification assigned in the MSRMP is more appropriate for this area.

We have several areas of concern with the landscape assessment component of the MEP, which lead us to a view that the proposed classification is not robust.

Vegetation

Vegetation cover in the Onauku area concerned is accurately described in the DoC/MDC report *Ecologically Significant Marine sites in Marlborough* as:

> *The surrounding land is mainly pasture and scrub with small remnants of regenerating coastal forest.* (site 4.24 Onauku Bay Head)

This degraded vegetation cover is common in much of the Marlborough Sounds. The description applies not only to the head of Onauku Bay but also to much of the southern and eastern slopes of East Bay, except for areas covered by pine plantations.

Methodology

The proposed MEP Appendix 2 appears to lump exposed coastal cliffs facing Cook Strait with sheltered areas of East Bay in the *Outer Queen Charlotte Sound* sub area of Coastal Marine Area D in MEP Appendix 2. Lumping such distinctly different landscape catchments, with widely differing attributes, together in one assessment is an inappropriate methodology and is liable to lead to inaccurate and erroneous results.

The *Section 32 report for Chapter 7* refers to various landscape assessments prepared by consultants Boffa Miskell. The most recent Boffa Miskell report cited, and available for download from the MDC website, is the report *Marlborough Landscape Study 2015. Landscape Characterisation and Evaluation*.

None of the cited biophysical and perceptual landscape characteristics cited in the Boffa Miskell report for Northern Arapawa Island relate to East Bay. The only characteristic that relates to East Bay effectively restates the ONFL classification in subjective experiential terms, offering no evidence in support. In our view this falls short of the standard of evidence that would be expected to justify an ONFL classification to an area of regenerating scrub.

The Cook Strait facing part of Arapawa Island is a continuation of the Exposed Eastern Coastline unit. These seaward facing cliffs should be moved from the Northern Arapawa Island unit and grouped with the Exposed Eastern Coastline. This proposed change is consistent with the BM landscape assessment south of Arapawa Island, where sheltered Tory Channel landscapes have been assessed separately to coastal facing cliffs.

Hectors Dolphins

In addition the evaluation section of the BM report comments "The waters around East Bay have nationally significant ecological values, particularly for Hector's dolphin". We have a number of concerns about this statement. **Firstly**: dolphins are not generally considered to be a landscape feature. The Ecologically Significant Marine Sites overlay map in MEP Volume 4 addresses Hectors Dolphins. To also include Hectors Dolphins in a landscape assessment appears, at face value, to be a form of double-dipping and methodologically flawed. In our view the Ecologically Significant Marine Sites overlay is the appropriate place for those dolphin values to be considered. **Secondly:** Elsewhere in Queen Charlotte Sound areas of land adjacent to Ecological Site 4.17 (Hectors Dolphins) are not consistently classified as having notable landscape values. An example is the headland between Endeavour Inlet and Bay of Many Coves: this is a plantation forest area on a distinctive headland and lies adjacent to Ecological Site 4.17 but is not rated as ONFL. In contrast the pine planation area on the west side of Otanerau Bay is classified as ONFL. The inconsistency in classification between these areas appears to confirm that the presence or absence of Hectors Dolphins is neither necessary nor sufficient to justify landscape classifications assigned by the consultants. **Thirdly:** the MEP does not provide nor cite any reliable evidence that East Bay is of particular importance to Hectors Dolphins. We interpret the somewhat vague phrase "waters around East Bay" in the Boffa Miskell comment (as opposed to "waters of East Bay") as implicitly acknowledging a level of uncertainty. **Fourthly:** the phrase "have nationally significant ecological values" is vague and effectively meaningless. This description could be validly applied to every area of New Zealand, as every parcel of water holds - to some degree - values that are considered nationally significant. If East Bay is considered to be of national significance for its marine ecology then that should be plainly stated and supported by robust evidence. Our understanding is that the waters of East Bay are not nationally significant from an ecological perspective.

Summary

The above observations, taken together with the absence of outstanding features in East Bay, raises questions about the validity of the landscape assessment for this locality. This leads us to the conclusion that the proposed ONFL classification for this area is inconsistent and erroneous.

In our view there is no valid justification for the proposed ONFL landscape classification of these parts of East Bay.

The decision I seek from the Council is:

1. move the seaward facing slopes of Arapawa Island into the Exposed Eastern Coastline assessment unit and re-asses Northern Arapawa landscape values
2. remove proposed ONFL classifications in MEP Volume 4 from the areas on the southern and eastern slopes of East Bay covering from the waters edge to the ridgeline and from Manawa Point through to Matiere Point
3. amend Section 32 Report 7 and supporting documents accordingly, and.
4. remove the comment "The waters around East Bay have nationally significant ecological values, particularly for Hector's dolphin." from the Boffa Miskell report *Marlborough Landscape Study 2015. Landscape Characterisation and Evaluation.*
5. Retain the exclusion of the waters of East Bay from the ONFL classification

6.2. Coastal Natural Character, and

- Appendix 2 - *Values contributing to high, very high and outstanding coastal natural character, and*
- Section 32 *Report 6 – Natural Character*

This part of my submission relates to the proposed *very high* natural values classification assigned to the eastern and southern flanks of East Bay in MEP Volume 4.

I oppose this part of the Proposed MEP.

My reasons for opposing this part of the MEP:
The overlay map labels the flanks of East Bay, and much of the waters of East Bay as having *very high* natural character. As noted previously, vegetation cover in the Onauku area concerned is accurately described in the DoC/MDC report *Ecologically Significant Marine sites in Marlborough* as (site 4.24):

> *The surrounding land is mainly pasture and scrub with small remnants of regenerating coastal forest.* (site 4.24 Onauku Bay Head)

This is an accurate description of the vegetation cover of the southern and eastern slopes of East Bay, except for areas covered by pine plantations. This degraded vegetation cover is common in much of the Marlborough Sounds. The inconsistency of this degraded vegetation cover with the assigned *very high* natural values classification raises questions about the validity of the natural values assessment for this locality.

In our view the overlay map in MEP Volume 4 and the key values and additional comments listed for this area in Appendix 2:

- do not demonstrate an assessment process of appropriate validity and scale, and
- do not justify the classifications shown on the Coastal Natural Character overlay, and in particular the classifications assigned to the inner part of East Bay.

The decision I seek from the Council is:

1. remove proposed very high natural values classification in MEP Volume 4 from the areas on the southern and eastern slopes of East Bay covering from the waters edge to the ridgeline and from Manawa Point through to Matiere Point
2. expand the zone of no ONFL classification of the southern waters of East Bay so as to be at least 500m from the outer edge of any existing marine farm
3. amend Appendix 2, Section 32 Report 6 and supporting documents accordingly.

6.3. Ecologically Significant Marine Site 4.17

This part of my submission relates to the geographic extent of Ecologically Significant Marine Site 4.17 – Dolphin Area (QCS).

I oppose this part of the Proposed MEP.

My reasons for opposing this part of the MEP.
When we attempted to use the overlay maps of the MEP Volume 4 the overlap maps system would not allow the "Dolphins" layer to be visible or interrogated. This appears to be due to the overlying "Whales" layer. However we could interrogate a layer labelled as *Dolphin area (QCS)* (ID:15) in the layers table of the Maps Overlay. We understand that refers to Site 4.17 of the supporting DoC/MDC report and that the geographic area extends into East Bay.

Site 4.17 is labelled *Queen Charlotte Sound (Hectors Dolphin Area)* in the DoC/MDC report *Ecologically Significant Marine sites in Marlborough*. The accompanying description in that report makes it clear that Hectors Dolphins are the sole focus of this site. The MDC/DoC report description for Site 4.17 identifies a pod of Hector's Dolphins near Bluemine Island, but provides no supporting evidence to indicate that Onauku Bay, or any other part of East Bay, is important for Hectors dolphins.

The decision I seek from the Council is:
1. Rename layer as *Hectors Dolphin Area (QCS)* in MEP Volume 4, and
Remove inner East Bay from the area associated with Site 4.17 in MEP Volume 4 - where inner East Bay is defined as waters east of Matiere Point.

6.4. Ecologically Significant Marine Sites 7.15

This part of my submission relates to Ecologically Significant Marine Site 7.15.

I oppose this part of the Proposed MEP.

My reasons for opposing this part of the MEP:
This site is inadvertently mislabelled in the overlay through use of the abbreviated title of *Whales.* The full title of the site, from the DoC/MDC source report *Ecologically Significant Marine sites in Marlborough* for site 7.15 is *Cook Strait whale migratory corridor.*

No evidence is presented in the DoC/MDC source report that whales migrating through Cook Strait use inlets such as East Bay in any significant manner. In our submission, East Bay is not a significant part of a Cook Strait whale migratory corridor, and should not be included in Site 7.15.

The decision I seek from the Council is: in MEP Volume 4, remove inner East Bay from the area associated with Ecologically Significant Marine Site 7.15 – where inner East Bay is defined as waters east of Matiere Point.

7. Volume 4 – Maps – Overlays - Forsyth Bay

7.1. Coastal Natural Character, and

- Appendix 2 - *Values contributing to coastal natural character, and*
- Section 32 *Report 6 – Natural Character*

This part of my submission relates to the geographic extent of the "high" classification of the natural character to the Forsyth Bay waters and slopes facing Forsyth Bay to the south of Kaitira in MEP Volume 4.

I oppose this part of the Proposed MEP.

My reasons for opposing this part of the MEP:
At the north end of Forsyth Bay the overlay map newly assigns a "high" classification to the natural character to the waters and to slopes facing Forsyth Bay in an area to the south of Kaitira. The classification is inconsistent with the natural character values of that location.

The decision I seek from the Council is: remove from MEP Volume 4 the proposed *high* natural value classification assigned to the following areas:

- all land facing into Forsyth Bay where the land lies both south and west of Wynens Rock and
- all waters of Forsyth Bay located both south and west of Wynens Rock,
- where the rock known locally as Wynens Rock is shown as an un-named mark on nautical chart NZ6152, located at or near 40°58.55' S, 174°1.03' E. (The location where the existing MSRMP CMZ1/CMZ2 boundary line intersects the shore of Forsyth Bay to the south of Kaitira could be used as a proxy).

8. Summary

Thank you once again for the opportunity to make this submission.

We wish to be heard on these matters.

Kind regards

Lynette Oldham

Kevin Oldham

SUBMISSION ON PUBLICLY NOTIFIED PROPOSAL FOR POLICY STATEMENT OR PLAN, CHANGE OR VARIATION

Clause 6 of First Schedule, Resource Management Act 1991

RECEIVED
01 SEP 2016
MARLBOROUGH DISTRICT COUNCIL

To MARLBOROUGH DISTRICT COUNCIL

Name of submitter: R A & R S HALL AQUACULTURE [insert name]

1. This is a submission on the Proposed Marlborough Environment Plan.

2. I/we could not gain an advantage in trade competition through this submission.

3 I/we have an interest in the following farms, or farms in the following bays:

B403 EAST BAY. [list site numbers or bays]

The specific provisions of the proposal that my submission relates to are	My submission is	I seek the following decision from the local authority
Set out in MFA &AQNZ submission	Support MFA &AQNZ submission	As set out in MFA &AQNZ Submission
Vol 4 Coastal Natural Character Maps; Volume 3 Appendix 2	High, very high and outstanding Natural character overlay is too extensive	Remove natural character overlay from the vicinity of the farms or bays listed above; or Record that aquaculture will not affect the relevant values
Vol 4 Landscape Maps; Volume 3 Appendix 1	Outstanding natural feature and landscape overlay is too extensive	Remove outstanding natural feature and landscape overlay from the vicinity of the farms or bays listed above; or Record that aquaculture will not affect the relevant values

3. I/we wish(~~do not wish~~) to be heard in support of its submission.

4. If others make a similar submission, I/we will consider presenting a joint case with them at a hearing.

[signature]

Submitter

Date: 27-8-16 [date]

Address for service of Submitter: PO Box 236 Picton [address]

Telephone: 0274481966 [telephone] Fax: [fax]

Contact person: RICHARD HALL [contact person]

Note to person making submission

If you are making a submission to the Environmental Protection Authority, you should use form 16B. If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.

SUBMISSION ON PUBLICLY NOTIFIED PROPOSAL FOR POLICY STATEMENT OR PLAN, CHANGE OR VARIATION

Clause 6 of First Schedule, Resource Management Act 1991

RECEIVED
29 AUG 2016
MARLBOROUGH DISTRICT COUNCIL

To MARLBOROUGH DISTRICT COUNCIL

Name of submitter: Olivia Burns

1. This is a submission on the Proposed Marlborough Environment Plan.

2. I could not gain an advantage in trade competition through this submission.

3 I have an interest in the following farms, or farms in the following bays:

8400 and 8510 East Bay Queen Charlotte Sounds[1]

The specific provisions of the proposal that my submission relates to are	**My submission is**	**I seek the following decision from the local authority**
Set out in MFA & AQNZ submission	Support MFA & AQNZ submission	As set out in MFA & AQNZ Submission
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Vol 4 Landscape Maps; Volume 3 Appendix 1	Outstanding natural feature and landscape overlay is too extensive	Remove outstanding natural feature and landscape overlay from the vicinity of the farms or bays listed above; or Record that aquaculture will not affect the relevant values

3. I don't wish to be heard in support of its submission.

4. If others make a similar submission, I will consider presenting a joint case with them at a hearing.

Olivia Burns

Submitter

Date: 29/08/16

Address for service of Submitter: 18 Nosworthy St Blenheim

Telephone:027 6277283

Contact person: Frank Burns

Note to person making submission

If you are making a submission to the Environmental Protection Authority, you should use form 16B. If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.

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RECEIVED
29 AUG 2016
MARLBOROUGH DISTRICT COUNCIL

To MARLBOROUGH DISTRICT COUNCIL

Name of submitter: Frank Burns

1. This is a submission on the Proposed Marlborough Environment Plan.

2. I could not gain an advantage in trade competition through this submission.

3 I have an interest in the following farms, or farms in the following bays:

8400 and 8510 in East Bay Queen Charlotte Sounds

The specific provisions of the proposal that my submission relates to are	**My submission is**	**I seek the following decision from the local authority**
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3. I wish to be heard in support of its submission.

4. If others make a similar submission, I will consider presenting a joint case with them at a hearing.

Frank Burns

Submitter

Date: 29/08/16

Address for service of Submitter: 18 Nosworthy St Blenheim

Telephone: 027 6277283

Contact person: Frank Burns

Note to person making submission

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Clause 6 of First Schedule, Resource Management Act 1991

RECEIVED
29 AUG 2016
MARLBOROUGH DISTRICT COUNCIL

To MARLBOROUGH DISTRICT COUNCIL

Name of submitter: Kirsten Burns

1. This is a submission on the Proposed Marlborough Environment Plan.

2. I could not gain an advantage in trade competition through this submission.

3 I have an interest in the following farms, or farms in the following bays:

8400 and 8510 Queen Charlotte Sounds

The specific provisions of the proposal that my submission relates to are	**My submission is**	**I seek the following decision from the local authority**
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3. Iwish to be heard in support of its submission.

4. If others make a similar submission, I will consider presenting a joint case with them at a hearing.

Kirsten Burns

Submitter

Date: 29/08/16

Address for service of Submitter: 18 Nosworthy St, Blenheim

Telephone:027 5782477

Contact person: Kirsten Burns

Note to person making submission

If you are making a submission to the Environmental Protection Authority, you should use form 16B. If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.

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29 AUG 2016
MARLBOROUGH
DISTRICT COUNCIL

SUBMISSION ON PUBLICLY NOTIFIED PROPOSAL FOR POLICY STATEMENT OR PLAN, CHANGE OR VARIATION

Clause 6 of First Schedule, Resource Management Act 1991

To MARLBOROUGH DISTRICT COUNCIL

Name of submitter: Abigail Burns

1. This is a submission on the Proposed Marlborough Environment Plan.

2. I could not gain an advantage in trade competition through this submission.

3 I have an interest in the following farms, or farms in the following bays:

8400 and 8510 Queen Charlotte Sounds

The specific provisions of the proposal that my submission relates to are	My submission is	I seek the following decision from the local authority
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3. I don't wish to be heard in support of its submission.

4. If others make a similar submission, I will consider presenting a joint case with them at a hearing.

Abigail Burns

Submitter

Date: 29/08/16

Address for service of Submitter: 18 Nosworthy St Blenheim

Telephone:027 6277283

Contact person: Frank Burns

Note to person making submission

If you are making a submission to the Environmental Protection Authority, you should use form 16B. If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.

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Clause 6 of First Schedule, Resource Management Act 1991

RECEIVED
29 AUG 2016
MARLBOROUGH DISTRICT COUNCIL

To MARLBOROUGH DISTRICT COUNCIL

Name of submitter Colin Ronald Norton and Tom Ronald Norton

1. This is a submission on the Proposed Marlborough Environment Plan.

2. we could not gain an advantage in trade competition through this submission.

3 we have the following interest in the marine farming industry

Marine farm 8400

The specific provisions of the proposal that my submission relates to are	**My submission is**	**I seek the following decision from the local authority**
Set out in MFA & AQNZ submission	Support MFA & AQNZ submission	As set out in MFA & AQNZ Submission

3. we wish(es) to be heard in support of its submission.

4. If others make a similar submission, we will consider presenting a joint case with them at a hearing.

[signature]

Submitter

Date: 26/8/2016. [date]

Address for service of Submitter:237 Westdale rd Rd1 Richmond Nelson 7081

Telephone: 021 2446623 [telephone] Fax: n/a

Contact person: Colin Ronald Norton

Note to person making submission

If you are making a submission to the Environmental Protection Authority, you should use form 16B. If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.

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DISTRICT COUNCIL

SUBMISSION ON PUBLICLY NOTIFIED PROPOSAL FOR POLICY STATEMENT OR PLAN, CHANGE OR VARIATION

Clause 6 of First Schedule, Resource Management Act 1991

To MARLBOROUGH DISTRICT COUNCIL

Name of submitter Colin Ronald Norton and Tom Ronald Norton

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2. we could not gain an advantage in trade competition through this submission.

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[signature]

Submitter

Date: 26/8/2016. [date]

Address for service of Submitter:237 Westdale rd Rd1 Richmond Nelson 7081

Telephone: 021 2446623 [telephone] Fax: n/a

Contact person: Colin Ronald Norton

Note to person making submission

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Schedule C

Decision of the MEP Hearings Panel: https://www.marlborough.govt.nz/your-council/resource-management-policy-and-plans/proposed-marlborough-environment-plan/decisions-on-the-pmep/full-decision-on-the-pmep

Track Changes of the MEP: https://www.marlborough.govt.nz/your-council/resource-management-policy-and-plans/proposed-marlborough-environment-plan/decisions-on-the-pmep/pmep-tracked-changes-version

Schedule D: Persons to Be Served With a Copy of this Notice

Name / Organisation	Contact	Address for Service
Marlborough District Council	Kaye McIlveney	Kaye.McIlveney@marlborough.govt.nz