

**IN THE ENVIRONMENT COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY**

**I TE KŌTI TAIAO O AOTEAROA
ŌTAUTAHI ROHE**

EnvC-2020-CHC-

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

AND

IN THE MATTER of an appeal under Clause 14, Schedule 1 of the RMA

BETWEEN **APEX MARINE FARM LIMITED** a duly incorporated company
having its registered office at 59 Houldsworth Street,
Blenheim, 7201

Appellant

AND

MARLBOROUGH DISTRICT COUNCIL

Respondent

**NOTICE OF APPEAL
Dated this 8th day of May 2020**

Next Event Date:
Judicial Officer:

**GASCOIGNE WICKS
LAWYERS
BLENHEIM**

Appellant's Solicitor
79 High Street
PO Box 2
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Notice of Appeal to Environment Court against decision on a proposed Plan

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

To: The Registrar
Environment Court
Christchurch

Name of Appellant and Decision Maker

- 1 Apex Marine Farm Limited (“Apex”) appeals against part of the decision of the Marlborough District Council (“MDC”) on the proposed Marlborough Environment Plan (“proposed Plan”).
- 2 Apex made a submission on the proposed Plan.

Trade Competition

- 3 Apex is not a trade competitor for the purposes of s 308D of the Act.

Date of Decision appealed against

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

Date on which Notice of Decision was received by Appellant

- 5 Apex received notice of the decision on 21 February and 3 March 2020.

The Decision and Specific Reasons

- 6 The parts of the decision that Apex is appealing are:

Navigation

- 7 Apex appeals:
 - (a) Policy 13.3.4 of Volume One of the proposed Plan, in that Tory Chanel and East Bay should be excluded from the ambit of the policy..
 - (b) Policy 13.15.1 in Chapter 13 of Volume 1 of the proposed Plan.
 - (c) The extent of the National Transportation Route (NTR) mapping into the side bays of Tory Channel in Volume 4 of the proposed Plan.
- 8 The reasons for the appeal include:
 - (a) Tory Channel and East Bay should be excluded from Policy 13.3.4. Plainly commercial activities do have priority in Tory Channel, as commercial ferries have priority over all recreational activities. There

are a number of other commercial activities in Tory Channel, including marine farming, forestry and farmland. Existing activities such as aquaculture should be accounted for.

- (b) Policy 13.15.1 refers to avoiding “adverse effects on the safety and efficiency of ships transiting” the NTR. The avoidance policy is not justified in terms of the regional-level approach to navigation. For example, the recent Revised Harbour Safety Management System¹ refers to a risk-management system, not an avoidance system. Risk management is a dynamic process, which identifies risks, properly manages and controls risks and seeks to reduce risk “so far as is reasonably practicable.”²
- (c) The extent of the National Transportation Route (NTR) Map in Volume Four should not include the side bays of Tory Channel. The purpose of mapping the NTR is to afford protection to the NTR itself, not its surrounds. The mapping as it currently stands affords protection³ to the side bays and equates them to the NTR itself. That mapping is not justified. The approach taken to mapping the NTR in the Northern Entrance of Queen Charlotte Sound is to be preferred.

Landscape and Natural Character

9 Apex appeals:

- (a) The extent of Outstanding Natural Landscape (ONL) mapping of Ngaruru Bay in Landscape Map 5 of Volume Four of the proposed Plan.
- (b) The extent of the ONL mapping of the area from Log Point to Mussel Point in Landscape Map 9 of Volume Four of the proposed Plan.
- (c) The extent and methodology of the high natural character mapping in Tory Channel, Onapua Bay and Marys Bay in Coastal Natural Character Rating Maps 3 and 4 of Volume 4 of the proposed Plan.
- (d) The methodology underpinning the coastal natural character and landscape mapping in Volume 4 of the proposed Plan.

¹ Comprised of the Harbour Safety Management System, Harbour Safety Plan, Harbour Risk Management Standard and Incident Management – Operational MRA – Commercial, available here: <https://www.marlborough.govt.nz/your-council/meetings?item=id:28dhrpjtv1cxbyklh9qf>

² Harbour Safety Management System at pp 11 – 12.

³ Such as in Policy 13.15.1 in Volume One of the proposed Plan.

- (e) The methodology and content of the Landscape Schedule of Values at Appendix 1 and the Coastal Natural Character Schedule of Values at Appendix 2 of Volume 3 of the proposed Plan.
 - (f) Appendix 4 of Volume Three of the proposed Plan.
 - (g) The lack of recognition of marine farms as part of the existing environment of the Marlborough Sounds in the above mapping and Appendices.
- 10 The reasons for the appeal include:
- (a) The evaluation must be at the appropriate geographic scale treating landscape, feature or natural character areas a whole.
 - (b) ONF and ONL boundaries and the corresponding boundaries for natural character should be legible and coherent to the community.
 - (c) There should be a correlation between the Outstanding Natural Landscapes and Features mapping in Volume 4 and the landscapes identified at Map 2, Appendix 1 of Volume 3 of the proposed Plan.
 - (d) An assessment of biophysical attributes is the appropriate starting point for assessment.
 - (e) The scheduling of landscapes, features and natural character needs to go beyond broad generic descriptions of values if a schedule is to serve its intended purpose in assisting consent application processes. The proposed Plan needs to provide as much certainty as possible on what is being protected and why. The proposed Plan fails to achieve Policy 4.3.3.
 - (f) The policies and other methods should identify parameters within which change could occur, and where change is anticipated specify the extent to which change may occur in the schedules.

Ecologically Significant Marine Sites (ESMS)

- 11 Apex appeals the mapping of ESMS 9.1 Cape Campbell / Ward Reef at ESMS Map 16 in Volume Four of the proposed Plan, and the buffer zone imposed around that site.
- 12 The reason for the appeal is that the classification is not justified.

Consent Duration

- 13 Apex appeals policy 13.2.3 of Volume One of the proposed Plan.
- 14 The reason for the appeal is that policy 13.2.3 is contradictory to s 123A of the Act, regarding aquaculture. The policy seeks to generally limit consents in the coastal environment to a period not exceeding 20 years. Section 123A of the Act makes it mandatory that consents be imposed for a 20 year *minimum*⁴. Is it therefore not justified for Policy 13.2.3 to impose such a general limit.

Ocean Acidification

- 15 Apex appeals to seek that Ocean Acidification be included more prominently and addressed in Chapter 19 of Volume 1 of the proposed Plan.
- 16 Ocean acidification does not feature in the proposed Plan, except in the commentary on page 19-1 of Chapter 19 in Volume 1. Existing research explores the level of threat ocean acidification poses to our coastal environment.⁵ The predominant cause of increasing acidification of oceans is carbon dioxide dissolving in seawater, which releases hydrogen ions, causing pH to drop.⁶ In terms of allowing activities to be adapted due to climate change⁷, the proposed Plan should also consider how activities could be affected by ocean acidification. The scope of the Climate Change chapter (Chapter 19) of Volume 1 of the proposed Plan should therefore include ocean acidification.

General Reasons for the Appeal

- 17 While Apex is generally supportive of the proposed Plan provisions, Apex considers 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) Is not contrary to Part 2 and other provisions of the Act;

⁴ Except for in the narrow listed circumstances.

⁵ Such as: MacDiarmid, A.; McKenzie, A.; Sturman, J.; Beaumont, J.; Mikaloff-Fletcher, S.; Dunne, J. (2012). Assessment of anthropogenic threats to New Zealand marine habitats. New Zealand Aquatic Environment and Biodiversity Report No. 93. 255 p.

⁶ For an overview of ocean acidification and the research work being undertaken in New Zealand see NIWA "Putting the acid on" Water & Atmosphere (November 2015) at 13. A copy is available here:

www.niwa.co.nz/sites/niwa.co.nz/files/Water%20%20Atmosphere_November%202015.pdf.

⁷ For example, see Policy 19.2.2 in Chapter 19 of Volume 1 of the proposed Plan.

- (c) Is not contrary to the New Zealand Coastal Policy Statement 2010;
- (d) Is not contrary to other relevant planning documents; and
- (e) Will meet the reasonably foreseeable needs of future generations.

18 In particular, and without limiting the generality of the above paragraph, please see the specific reasons above.

Relief Sought

19 The Appellant seeks the following relief:

- (a) Amendments to the relevant rules and map as set out in **Schedule A** to this notice; and
- (b) Any necessary consequential amendments; or
- (c) Other equivalent relief.

20 The Appellant agrees to participate in mediations or other alternative dispute resolution of the proceeding.

Attached Documents

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

- (a) **Schedule A** as referred to above;
- (b) A copy Apex's submission and further submission (**Schedule B**);
- (c) A copy of the relevant parts of the decision (**Schedule C**); and
- (d) Persons to be served with this notice (**Schedule D**).

22 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 Appellant notes 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.



Amanda L Hills and Quentin A M Davies

Solicitors for the Appellant

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Contact persons: A L Hills, Solicitor; E Deason, Solicitor; Sharyn Hammerson, Secretary

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,—

- (a) 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 (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- (b) 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

The copy of this notice served on you does not attach a copy of the appellant's submission and (or or) the decision (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.

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).

SCHEDULE A – Relief Sought

- Base text is the Decisions Version, with Hearing Panel’s recommendations accepted to remove tracking.
- Where the Appellant seeks additional text, this is shown in underline.
- Where the Appellant seeks to delete text, this is shown in ~~striketrough~~.
- Relief sought is indicative. Relief sought includes alternative wording or approach which achieves similar goals.

Provision	Relevant part of provision	Relief sought
Policy 13.3.4, Volume 1	Text of policy and commentary	<p>Amend policy to read:</p> <p>Policy 13.3.4 – Ensure recreational use has priority over commercial activities that require occupation of the coastal marine area in Queen Charlotte Sound, including <u>excluding</u> Tory Channel and East Bay. (This policy does not apply to areas zoned Port or Marina.)</p> <p>Insert new text into commentary:</p> <p>The policy recognises that for Queen Charlotte Sound and Tory Channel, <u>excluding Tory Channel and East Bay</u>, recreational use is significant and is to have a priority over commercial interests that require occupation of the coastal marine area. Recreational use is particularly important in these areas, with a large number of holiday homes being a base for recreation and with good access points in Picton and Waikawa (including through launching ramps and marinas). Historically, activities such as marine farming have been prevented from occurring in these areas, <u>except in appropriate locations</u>, because of the extent of recreational activities. The exclusion of Port and Marina Zones in Queen Charlotte Sound acknowledges the establishment of these zones for port and marina activities within which recreational activities may not be appropriate.</p>
Policy 13.15.1, Volume 1	Text of policy	<p>Amend policy to read:</p> <p>Activities and/or structures along the National Transportation Route shall be sited and/or undertaken in such a way that adverse effects on the safety and efficiency of ships transiting this route are avoided <u>appropriately managed</u>.</p>
National Transportation Route Map, Volume 4	Extent of mapping	Amend map to remove the National Transportation Route from side bays of Tory Channel.

Landscape Map 5, Volume 4	Mapping	Amend the Outstanding Natural Landscape mapping of Ngaruru Bay in accordance with submissions relating to methodology; and The MEP should expressly recognise that marine farms do not adversely impact the values that lead to that classification.
Landscape Map 9, Volume 4	Mapping	Amend the Outstanding Natural Landscape of Cape Campbell. Recognise that not all activities will be inconsistent with the values of that area.
Coastal Natural Character Rating Map 4, Volume 3	Mapping	Amend the High natural character mapping Marys Bay in accordance with submissions relating to methodology; and The MEP should expressly recognise that marine farms do not adversely impact the values that lead to that classification.
Coastal Natural Character Rating Map 4, Volume 4	Mapping	Amend the High natural character mapping of Ngaruru Bay/Tory Channel and Onapua Bay in accordance with submissions relating to methodology; and The MEP should expressly recognise that marine farms do not adversely impact the values that lead to that classification.
Appendix 1, Volume 3	Text of appendix	In addition to broad appeal relating to methodology, for each area where there is an existing marine farm, include an express statement to the following effect (following the approach in the Auckland Unitary Plan at Chapter L, Schedule 7): <i><u>“Some bays contain existing marine farms, but this does not compromise [relevant area’s name] current natural values.”</u></i>
Appendix 2, Volume 3	Text of appendix	In addition to broad appeal relating to methodology, for each area where there is an existing marine farm, include an express statement to the following effect (following the approach in the Auckland Unitary Plan at Chapter L, Schedule 8): <i><u>“Although marine farms occupy part of the [area], they do not compromise the overall ‘naturalness’ of the coastal environment.”</u></i>
Ecologically Significant Marine Site Map 16, Volume 4	Mapping of ESMS 9.1 and buffer	Remove the classification and associated buffer from this area; or Expressly recognise that many activities are compatible with this site.
Policy 13.2.3(b), Volume 1	Text of policy	Amend policy to read: [...] (b) the duration of coastal permits granted for activities in the coastal marine area for which limitations on durations are imposed under the Resource Management Act 1991 will generally be limited to a period not exceeding granted for a minimum period of 20 years.

Chapter 19, Volume 1	Text of chapter	Incorporate changes shown in yellow highlighting at Appendix 1 into Chapter 19, including any necessary consequential changes.
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19. Climate Change and Ocean Acidification

Commented [AH1]: MFA submission point 165. 426.190.

Introduction

Society will continue to rely on fossil fuels as an energy source for the foreseeable future. The consumption of these fuels results in the release of carbon dioxide and other greenhouse gases into the atmosphere. The general consensus of scientific opinion is that the world is getting warmer, causing its climate to change. Global temperatures are approximately 0.6 degrees Celsius higher now than they were in the early 1990s. While there is not unanimous agreement, there is now strong evidence that most of the warming observed is attributable to increased concentrations of greenhouse gases produced by human activities. As more gases accumulate in the atmosphere, the Earth gets warmer, resulting in rising sea temperatures and levels, the melting of glaciers and ice caps and greater extremes in weather patterns, such as more storms of greater intensity and longer droughts.

In Marlborough, NIWA predicts that the mean air temperature will increase by approximately 1 degree by 2040 and 2 degrees by 2090. The climate is likely to become drier and the frequency of droughts is expected to increase. There is also a predicted increase in westerly winds, especially in winter and spring. Warming on the seas and oceans because of climate change, increases stratification of the surface layers, thereby affecting light and nutrient availability and consequently decreasing phytoplankton production - the base of the entire ocean food chain.

Rising CO₂ levels in the atmosphere results in increasing amounts being absorbed by the oceans, forming carbonic acid, thereby lowering pH and altering the ocean's chemistry, making it more difficult for marine organisms to secrete carbonate structures such as shells and bones. This 'ocean acidification' process has been identified as the key threat to New Zealand's marine habitats, because it is so pervasive, potentially affecting every habitat and a very wide range of marine organisms. The pH of coastal waters is inherently variable due to a complex interplay of factors, which include temperature, biological uptake and respiration, terrestrial run-off and pollution. This makes it important to establish a monitoring programme to determine spatial and temporal variability in pH and establish a baseline for assessing future change.

Section 7 of the Resource Management Act 1991 (RMA) requires the Council to have regard to the effects of these predicted climatic changes (and by extension, ocean acidification) in exercising its functions under the RMA. Uncertainty about the nature of these effects at international, national and local level makes this a difficult task. Most projections are also long term and certainly beyond the ten year life of the Marlborough Environment Plan (MEP). Taking all of this into account, the provisions of this chapter focus on applying the best available information to enable people and communities to respond to the adverse and positive effects created by climate change and ocean acidification.

Issue 19A – Climate change and ocean acidification have the potential to affect Marlborough’s natural and physical resources and the ability of people and communities to use these resources.

Marlborough relies on its natural and physical resources for its social and economic wellbeing and health and safety. The nature of many natural and physical resources and the ability to use them, especially land and freshwater resources, is dependent on climate. This makes Marlborough vulnerable to any long term changes in climate and ocean pH.

Primary industry makes a significant contribution to Marlborough’s economy and is vulnerable to changes in climate. Many primary industries rely on sufficient quantities of rainfall or freshwater in rivers and aquifers to supplement rainfall through irrigation. The various crops that are grown or the type of stock that is grazed reflects these climate variables. Predictions of higher temperatures, more extreme temperatures and reduced rainfall could therefore have a significant impact on rural land users through increased risk of drought and decreased water availability. Any decrease in water availability will also increase the competition for freshwater amongst existing users.

Marlborough’s natural ecosystems could also be vulnerable to the effects of climate change and/or ocean acidification. Indigenous terrestrial, aquatic and marine species could respond to increased temperatures and/or drier conditions by shifting to more suitable climatic zones. Any inability to move may have significant consequences for the long term viability of affected indigenous species, especially plants.

However, climate change may create new opportunities. Plant growth could improve due to longer growing seasons and rising carbon dioxide levels. Warmer temperatures and decreased frost risk may enable new crops to be established; for example, Marlborough may become more suited to growing red wine grape varieties. Changes in climate may also create the opportunity to develop new ways to produce renewable energy.

The public health effects of climate change include warmer winters, which may alleviate cold related illnesses and death. This would have the added advantage of reducing energy consumption during the winter months. In contrast, hotter summers may cause heat stress while drier and windier conditions could create more dust and affect sufferers of respiratory disease. Windier conditions will also create additional challenges for the use of agrichemicals in the rural environment.

Communities may enjoy the health benefits of warmer winters, but warmer temperatures may also have significant biosecurity implications. Sub-tropical diseases may become a problem if carrier insects become established. Rising average temperatures could lead to the wider establishment and spread of new and/or existing pest plants, increased abundance of animal pests and greater survival of a range of insect pests.

The predictions of climate change at a national level involve significant uncertainty and little work has been undertaken to apply these national predictions to Marlborough’s climate. This makes the task of responding to the effects of climate change in Marlborough difficult. This situation is complicated further by the fact that New Zealand and Marlborough are subject to natural climate variations associated with La Nina/El Nino and the Interdecadal Pacific Oscillation. These natural variations will be superimposed on human-induced long term climate changes.

[RPS, R, C, D]

Objective 19.1 – Mitigation of and adaptation to the adverse effects on the environment arising from climate change and ocean acidification.

This objective focusses on actions that the community can take to reduce the potential for adverse effects on the environment caused by climate change and ocean acidification and to respond to any effects that do occur. One of the difficulties is that there is inherent uncertainty regarding the likely local climate changes in Marlborough and therefore the exact nature of those adverse effects is unknown, making it particularly difficult to plan for climate change. Further research will assist in this regard. In the meantime, it is prudent to promote actions that offset carbon emissions and retain sufficient flexibility in the use, development and protection of natural and physical resources to enable resource users to adapt to a changing climate and ocean acidification.

Commented [AH2]: MFA submission point 162. 426.187.

[RPS]

Policy 19.1.1 – Promote actions within Marlborough to reduce or offset carbon emissions.

Climate change and ocean acidification are global issues that New Zealand's central government is addressing at an international and national level. The RMA effectively excludes regional councils from the role of regulating emissions for climate change purposes (Sections 70A and 104E of the RMA). However, the Council can explore opportunities for supporting national policies and where appropriate promote methods that address climate change problems within New Zealand's national policy framework for climate change. For example, the Council could assess and then address the carbon footprint of delivering its own services to the community and encourage businesses to do likewise. This is one of many actions the Council could undertake to enable Marlborough's people and communities to play their part in responding to this global issue.

[RPS]

Policy 19.1.2 – Improve the community's understanding of the potential effects of climate change and ocean acidification on the Marlborough environment.

Although there has been considerable research to predict long term climate change and ocean acidification internationally and nationally, very few of the research findings have been applied directly to Marlborough's climate and coastal marine area. This makes it difficult to establish the likely effects of climate change and ocean acidification on natural and physical resources and the ability of people and communities to utilise these resources. It is therefore desirable to investigate local climate change, especially as Marlborough contains two distinct climate zones: a wetter climate north of and including the Richmond Range and a drier climate south of the Richmond Range, as well as distinct Coastal Marine Areas in the Sounds and coastal seas. The findings gained from research initiated through this policy can be applied to better understand the potential implications of climate change in a Marlborough context.

Commented [AH3]: MFA submission point 163. 426.188

[R, C, D]

Policy 19.1.3 – Enable primary industries to adapt to the effects of climate change and ocean acidification.

Farmers and foresters, as well as those involved in fishing and aquaculture, are inherently adaptable resource users and it is likely this will need to continue into the future as changes in climate begin to affect users' ability to utilise land, freshwater, and marine resources. Responses to increased temperatures and reduced water availability

Commented [AH4]: MFA submission point 164. 426.189.

may require modifications to farming practices or diversification of crops or stock types. Increased temperatures and reduced frost risk may also create opportunities to produce crops not previously grown in Marlborough. Similar opportunities could exist for the aquaculture industry as a result of increasing sea water temperatures and changing pH. **These include introducing different technical approaches to elevate pH at the spatial scale of mussel farms.** As Marlborough's economy is based on these primary industries, it is important that such adaptations can be made.

[R]

Policy 19.1.4 – Take a precautionary approach to the allocation of additional freshwater resources and where freshwater has already been allocated, ensure that the allocation reflects the status of the resource.

Sustainable flow regimes established through previous resource management plans have been reviewed during the preparation of the MEP. This involved a review of the sustainable yield from Marlborough's rivers and aquifers to confirm appropriate levels of allocation to resource users. Historical flow and level records were utilised as part of this process, including data that has been recorded since the original plans were notified. This approach ensured that any influence of climate change on sustainable yield was taken into account.

Given the importance of freshwater to the social and economic wellbeing of Marlborough, consideration was also given to opportunities to provide additional access to freshwater resources. Appropriate caution was applied to this task as the opportunities enabled by the allocation may not be realised if climate change reduces sustainable yield in the future. Access to freshwater may become unreliable to the extent that people cannot make a return on the investments made. This risk should be considered in perspective, taking into account the variable nature of Marlborough's freshwater resources in response to natural climate oscillations.

This policy can be applied to the environmental data collected over the life of the MEP. In this way, the policy will also inform any subsequent review of the provisions contained in Chapter 5 - Allocation of Public Resources.

[R]

Policy 19.1.5 – Ensure that the freshwater that is available for out-of-stream use is allocated and used efficiently, by:

- requiring that the rate of water use authorised by water permit be no more than that required for the intended use, having regard to the local conditions;
- enabling the transfer of water permits between users within the same Freshwater Management Unit; and
- enabling the storage of water for subsequent use during low flow and low level periods.

One of the significant risks of climate change locally is that Marlborough's climate may become drier, with drought periods becoming more frequent and longer in duration. If this happens, it is essential that available freshwater resources are allocated and utilised efficiently to ensure that the social and economic benefits that can be derived from the freshwater that is available are maximised. The matters specified in (a) and (b) target efficient allocation and use of freshwater. The intent is to ensure that freshwater is not unnecessarily "locked up" in paper allocation when it could benefit existing or potential users.

If water availability declines over time due to reduced river flows or aquifer levels brought about by decreased rainfall, then storing freshwater would be an effective means of retaining reliability of supply. As set out in (c), this policy enables the taking of freshwater during periods of higher river flow. Stored water can then be used during periods of low river flow when access might otherwise be restricted.

The matters set out in (b) and (c) will result in more resilient communities as they reduce the vulnerability of resource users to decreased freshwater availability brought about by climate change. More details on the policy responses set out in (a) to (c) are contained in Chapter 5 - Allocation of Public Resources.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[RPS]

19.M.1 Council carbon footprint

Investigate Council operations to establish their carbon footprint; set goals for reducing carbon emissions and develop an action plan to reach those goals.

[D]

19.M.2 Marlborough Regional Land Transport Plan

Consider, in the review of the Marlborough Regional Land Transport Plan, provisions to reduce emissions of greenhouse gases.

[D]

19.M.3 Marlborough Walking and Cycling Strategy

Maintain, implement and review the Marlborough Walking and Cycling Strategy to promote modes of transport that do not rely upon fossil fuels.

[R, C, D]

19.M.4 Research

Apply the findings of international and national climate change and ocean acidification research to Marlborough's environment to the extent that is possible. The findings can then be applied to determine and better understand the implications of climate change and ocean acidification.

[R, C, D]

19.M.5 Information

Share the findings of research on climate change and ocean acidification in Marlborough and the implications of these predictions with the community. This will help to allow people to take action to prepare for those implications and therefore reduce the adverse effects of likely change.

[R]

19.M.6 Regional rules

Rules will establish sustainable levels of freshwater allocation that take into account the effects of climate change on river flows, aquifer levels and the resulting sustainable yield from those freshwater resources.

Enable the taking of surface water for storage purposes through the application of a controlled activity rule to the abstraction.

[D]

19.M.7 District rules

Apply a range of permitted activity rules to farming, forestry, and marine farming activities. Use broad definitions of "farming", "forestry" and "marine farming" so that farmers, foresters, and marine farmers are able to modify farming practices and diversify or change crop/stock types in response to changes in climate.

Enable the creation of permanent carbon sinks through the application of appropriate rules.

Issue 19B – Climate change could affect natural hazards and create a coastal inundation hazard associated with sea level rise.

The predictions of climate change include predictions of more extreme weather events. For the east coast of the South Island, including Marlborough, this means drier conditions and an increase in the incidence of drought. Drier conditions will also increase the risk of fire. Climate change may also result in a change in the frequency of extreme rainfall events. Any increase in frequency in such events could lead to more frequent and severe flooding.

In rural areas, if extreme events such as droughts and floods become more severe and frequent, costs associated with dealing with stock losses, increased soil erosion and damage and disruptions to farm operations would be expected to increase. To date, there is no indication that severe Marlborough rainfall events are increasing, though average global temperatures have clearly risen over the last ten years.

Global warming is expected to result in a rise in sea level due to thermal expansion of ocean water and melting of glacial and polar ice. Sea level is predicted to rise around 0.18 to 0.59 metres by 2090. This rise potentially increases the risk of inundation at the coast. Coastal erosion could also become more prevalent, increasing the need for coastal protection measures. Along the coastal margin of the Wairau Plain, the level of the Wairau River bar and river mouth efficiency has far greater influence on the potential for inundation than the projected sea level rise. Further south, the topography and lack of settlement minimises any inundation risk. However, the risks are far greater in the Marlborough Sounds where settlement and associated infrastructure (especially means of access, such as jetties and access tracks) tend to be located in the coastal environment and near the water edge.

More frequent extreme weather events would also pose a significant risk to regionally significant infrastructure such as buildings, roads, water, sewerage, electricity transmission and communication systems.

[RPS, R, C, D]

Objective 19.2 – Avoid and mitigate the adverse effects of natural hazards influenced by climate change.

Provisions elsewhere in the MEP seek to avoid and mitigate the adverse effects of natural hazards. This objective recognises that the severity and/or frequency of those natural hazards could potentially increase as a result of climate change. In these circumstances, any additional adverse effect should likewise be avoided or sufficiently mitigated.

While it could make existing natural hazards worse, climate change in itself creates a new hazard in sea level rise. It is appropriate that the adverse effects of sea level rise and the associated inundation of land are avoided and mitigated given that these adverse effects are permanent.

[R]

Policy 19.2.1 – Monitor flood hazard on an ongoing basis.

The magnitude and incidence of flooding may increase in response to climate change, particularly the predictions for more severe rainfall events. Policies in Chapter 11 - Natural Hazards establish a framework for reducing the risk of flooding to adversely affect communities. This is achieved by mapping the known and predicted flood risk areas and applying appropriate management to activities within those mapped areas. If climate change does result in increased magnitude or incidence of flooding, then this information will be collected and used to inform the review of the existing management framework. In response, it may be necessary to change and/or increase the boundaries of the flood hazard overlay in the MEP. Any such changes would have to pass through the First Schedule process of the RMA. Policy 11.1.16 in Chapter 11 - Natural Hazards provides more detail on this matter.

[R, C, D]

Policy 19.2.2 - Avoid any inundation of new buildings and where appropriate infrastructure within the coastal environment by ensuring that adequate allowance is made for the following factors when locating, designing and/or constructing any building or infrastructure:

- rising sea levels as a result of climate change of at least 0.5 metres relative to the 1980-1999 average; and
- storm surge.

In 2013, the International Panel on Climate Change determined that it is very likely that the rate of global mean sea level rise during the twenty-first century will exceed the rate observed during 1971– 2010 due to increases in ocean warming and loss of mass from glaciers and ice sheets.

The Ministry for the Environment advises local government (for planning and decision timeframes out to 2090-2099), to plan for a sea level rise of 0.5 metres relative to the 1980-1999 average as a base value but that assessments be made of potential consequences from a sea level rise of up to 0.8 metres.

Although the life of the MEP is only ten years, buildings have a minimum design life of 50 years and property titles have an indefinite life. It is therefore important that any new building is located, designed and/or constructed having regard to the long term risk of inundation as a result of sea level rise. This approach is also appropriate to

infrastructure located in the coastal environment that is not intended by design to be subject to inundation. The Ministry for the Environment advice has been utilised to establish the increase in sea level to be applied.

Storm surges occurring in response to low-pressure weather systems can cause higher than normal sea levels and inundation of low lying areas. This hazard increases with increasing sea levels, so any risk assessment made in accordance with this policy should also take into account the potential additive effects of storm surge on top of sea level rise.

This policy will be applied to the determination of resource consent applications. Rules elsewhere in the MEP require buildings to be set back from the coastal marine area. This in itself will act to protect buildings from the adverse effects of sea level rise and/or storm surge. However, when applications are made to establish a building within this setback, then the policy will be able to be applied.

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified.

[R, C, D]

19.M.8 Research

In order to plan for the effect of sea level rise, it is necessary to understand the areas along the Marlborough coast that are likely to be affected by inundation in the long term. The Council will undertake an investigation to establish the extent and nature of the inundation hazard using the International Panel on Climate Change's most recent projections of sea level rise.

[R, C, D]

19.M.9 Monitoring

The Council will continue to monitor water levels and flows in Marlborough's rivers. This will provide information on the magnitude and frequency of flood events over time and will allow changes in flood risk to be identified and evaluated.

[D]

19.M.10 District rules

Use rules to establish buffers between buildings and infrastructure and the coastal marine area. The horizontal setback created will reduce the potential for structures and infrastructure to be inundated until the research outlined above is completed. The research may prompt the need for additional district rules in certain locations to ensure Policy 19.2.2 continues to be met.

Anticipated environmental results and monitoring effectiveness

The following table identifies the anticipated environmental results of the climate change and ocean acidification provisions of the MEP. Unless otherwise specified, the anticipated environmental results are ten year targets. For each anticipated environmental result, a series of indicators will be used to monitor the effectiveness of the climate change provisions.

Anticipated environmental result	Monitoring effectiveness
<p>19.AER.1</p> <p>The community's understanding of the effects of climate change, sea level rise, and ocean acidification improves over time.</p>	<p>The results of research into the local effects of climate change, sea level rise, and ocean acidification are reported to the Council.</p> <p>Environmental data, including climate, flooding, and ocean pH is collected and reported to the Council to establish long term trends.</p>
<p>19.AER.2</p> <p>Primary producers are able to adapt to the effects of climate change and ocean acidification.</p>	<p>Monitoring of land use and land use change establishes changes in crop type. Similar monitoring of the coastal marine area establishes changes in aquacultural practices.</p>
<p>19.AER.3</p> <p>Buildings and infrastructure established after the notification of the MEP are not inundated by the sea.</p>	<p>Reports of inundation and/or damage to buildings and/or infrastructure.</p>

Schedule B: Submissions of Apex

**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: APEX MARINE FARM LIMITED

Apex Marine Farm Limited (Apex Marine) has been involved in aquaculture for many years and operates nine marine farms in Forsyth Bay, Nikau Bay, Port Underwood and Tory Channel. The company supplies greenshell mussels to processors. Over recent years it has developed techniques for growing Flat Oysters (*Ostrea chilensis*), which are sold direct to the New Zealand market and exported around the world. Apex Marine farms oysters in Oyster Bay and Port Underwood.

Apex Marine directly employs seven fulltime equivalents. Additional casual staff are also utilised. Wages and salaries are typically above the Marlborough average. Employees have good job stability, receive ongoing training and have good promotional opportunities with the company.

Apex Marine supplies oysters for community events such as dinner for Kaipupu Point Sounds Wildlife Sanctuary, dinner prizes for St Marks Adult Alcohol and Drug Treatment Centre, Queen Charlotte Yacht Club special events, and sponsors 'Give a Little' donations for local youth.

The company offered to have an involvement with Queen Charlotte College Aquaculture Programme, but they chose intertidal Pacific Oyster Culture, where access to the farms was better for students and the method of farming was more aligned to the course they were studying.

Apex Marine supports a wide range of local supply chain businesses in various sections, including transport, courier companies, air transport, engineering, marine and domestic electrical, marine and other mechanical services, boat yards, vessel berthage, slipways, local fuel companies (NPD), yard leases (MDC), boat chandlery, rope, local cotton stocking and local float manufacturers.

1. This is a submission on the following proposed plan (the **proposal**):
 - (a) Proposed Marlborough Environment Plan.

2. Apex Marine Farm Limited could not gain an advantage in trade competition through this submission.

The specific provisions of the proposal that our submission relates to are	Our submission is	We seek the following decision from the local authority
Those set out in the Marine Farming Association Incorporated (MFA) submission	Support the MFA submission in its entirety.	As set out in the MFA submission.
Specific points set out in the MFA submission.	<p>In particular Apex Marine Farm Limited supports the following submissions made by the MFA:</p> <ul style="list-style-type: none"> • Add new guiding principle to promote economic development (Chp 1); • Support Issue 4B, and proposed amendment to Policy 4.2.1 (Oyster Bay infrastructure); • Add new Issue 4D – Recognise that limiting development has a trade-off; • Add new Objective 4.3A – Qualities and values of the Sounds (recognise cultural and social use); • Add new Policy 4.1.1A – Existing Use; • Add new Policy 4.1.2A – Experimentation and Innovation; • Add new Policy 4.1.2B – Net Improvement; • Add new Policies 6.2.1 – 6.2.3 (avoidance policies – natural character); • Amend Policy 6.2.9 – Natural Character Restoration; • Add new Policies 7.2.5 – 7.2.5B (avoidance policies – landscape); • Support Policy 7.2.10 – reduce impact of Wilding 	As set out in the MFA submission.

The specific provisions of the proposal that our submission relates to are	Our submission is	We seek the following decision from the local authority
	Pines; <ul style="list-style-type: none"> • Amend Policy 8.2.2 – Partnering in restoration; • Add new Policies 8.3.1 – 8.3.2C (avoidance policies – indigenous biodiversity); • Add new Policy 8.3.8 – Biodiversity offsets; • Add new Adaptive Management policy to chapter 8; • Amend Policy 13.2.3(b) – Term of consent; • Amend Vol 1, Chapter 19, to include Ocean Acidification; • Amend Monitoring Equipment Standards 13.3.10, 14.3.5.1, 15.3.9, and 16.3.9; and • Support the submissions in respect of the Appendices (Vol 3) and Maps (Vol 4). 	
Those set out in the submission by Lloyd Sampson David.	Support the submission of Lloyd Sampson David in its entirety.	As set out in the submission by Lloyd Sampson David.
Vol 3, Appendix 1	Social and cultural uses, including existing marine farms, are part of the qualities and values of the Marlborough Sounds. This should be expressly recognised in the landscape values assessment at Appendix 1.	For each area where there is an existing marine farm, include an express statement to the following effect (following the approach in the proposed Auckland Unitary Plan at Chapter L, Schedule 7): <i>“Some bays contain existing marine farms, but this does not compromise [relevant area’s name] current natural values.”</i>
Vol 3, Appendix 2	Social and cultural uses, including existing marine farms, are part of the qualities and values of the Marlborough Sounds. This should be	For each area where there is an existing marine farm, include an express statement to the following effect (following the approach in the proposed

The specific provisions of the proposal that our submission relates to are	Our submission is	We seek the following decision from the local authority
	expressly recognised in the natural character values assessment at Appendix 2.	Auckland Unitary Plan at Chapter L, Schedule 8): <i>“Although marine farms occupy part of the [area], they do not compromise the overall ‘naturalness’ of the coastal environment.”</i>
Vol 4, Overlays, Coastal Natural Character Map 1	Support the Natural Character mapping in respect of Forsyth Bay.	Retain the mapping as proposed.
Vol 4, Overlays, Coastal Natural Character Map 3 AND Vol 3, Appendix 2	Support the Natural Character mapping in respect of Nikau Bay; AND Oppose the mapping of the land on the south side of Marys Bay as having high natural character.	Retain the mapping as proposed in Nikau Bay; AND Amend the Natural Character mapping at the head of Marys Bay; OR The MEP should expressly recognise that marine farms do not adversely impact the values that lead to that classification, by amending the values at Vol 3, Appendix 2, as per separate submission.
Vol 4, Overlays, Coastal Natural Character Map 4 AND Vol 3, Appendix 2	Support the natural character mapping in respect of: <ul style="list-style-type: none"> • Oyster Bay; and • Port Underwood. Oppose: <ul style="list-style-type: none"> • The extent of the high natural character overlay in Ngaruru Bay; and • The mapping of natural character in Tory Channel generally. The Natural Character of Tory Channel should encompass land and sea, rather than assessing 	Retain the mapping as proposed in: <ul style="list-style-type: none"> • Oyster Bay; and • Port Underwood. AND <ul style="list-style-type: none"> • Reduce the extent of the natural character overlay in Ngaruru Bay; and • The natural character of Tory Channel should be accurately mapped; OR The MEP should expressly

The specific provisions of the proposal that our submission relates to are	Our submission is	We seek the following decision from the local authority
	land and sea separately. Blanket application of high natural character across all of the waters, with the exception of some bays with marine farms, is not an accurate assessment of natural character. There are some parts of the benthic environment in Tory Channel that are deserving of a high natural character ranking, but it is not uniform as suggested. For example, it is unclear why the waters of some side bays, such as Onapua and Erie Bays, have high natural character.	recognise that marine farms do not adversely impact the values that lead to that classification, by amending the values at Vol 3, Appendix 2, as per separate submission.
Vol 4, Overlays, Landscape Map 1	Support the mapping proposed in Forsyth Bay.	Retain the mapping as proposed in Forsyth Bay.
Vol 4, Overlays, Landscape Map 4	Support the mapping as proposed in Nikau Bay and Marys Bay.	Retain the mapping as proposed in Nikau Bay and Marys Bay.
Vol 4, Overlays, Landscape Map 5 AND Vol 3, Appendix 1	Support the mapping of: <ul style="list-style-type: none"> • The south side of Tory Channel from Dieffenbach Point to past Te Rua Bay; and • Port Underwood; AND Oppose the extent of the outstanding natural landscape (ONL) overlay on the headland extending into Ngaruru Bay. The presence of Wilding Pines and lack of Wilding Pine control on the eastern extent of that area negates the ONL status.	Retain the ONL mapping as proposed in Port Underwood and Tory Channel, save for reducing the extent of the ONL overlay on the headland extending into Ngaruru Bay; OR The MEP should expressly recognise that marine farms do not adversely impact the values that lead to that classification, by amending the values at Vol 3, Appendix 1, as per separate submission.
Vol 4, Overlays,	Oppose the mapping of the	Remove the ONL overlay at

The specific provisions of the proposal that our submission relates to are	Our submission is	We seek the following decision from the local authority
Landscape Map 9 AND Vol 3, Appendix 1	area from Log Point to Mussel Point as ONL.	that location; OR The MEP should expressly recognise that marine farms do not adversely impact the values that lead to that classification, by amending the values at Vol 3, Appendix 1, as per separate submission.
Vol 4, Overlays, Ecologically Significant Marine Sites Map 5	Support the mapping of Forsyth Bay.	Retain the mapping as proposed.
Vol 4, Overlays, Ecologically Significant Marine Sites Map 8	Support the mapping of Nikau Bay.	Retain the mapping as proposed.
Vol 4, Overlays, Ecologically Significant Marine Sites Map 9	Support the mapping of Marys Bay.	Retain the mapping as proposed.
Vol 4, Overlays, Ecologically Significant Marine Sites Map 14	Support the mapping in: <ul style="list-style-type: none"> • Port Underwood; and • Oyster Bay, Tory Channel; AND Oppose the mapping of Ngaruru Bay.	Retain the mapping as proposed in Port Underwood and Oyster Bay; AND Remove the Ecologically Significant Site classification for Ngaruru Bay which is, presumably, because of a stand of macrocystis pyrifera at the entrance; OR The Marlborough Environment Plan should expressly recognise that marine farms do not adversely impact the values that lead to that classification and may actually enhance it by providing settlement surfaces for juvenile sporophytes and

The specific provisions of the proposal that our submission relates to are	Our submission is	We seek the following decision from the local authority
		recruitment back to the reef.
Vol 4, Overlays, Ecologically Significant Marine Sites Map 16	Oppose the mapping in the Cape Campbell area.	Remove the classification from this area; OR The MEP should expressly recognise that many activities are compatible with this site.
Vol 4, Overlays, Marine Mammal (Whale), Map 17	Oppose the mapping in Port Underwood, Tory Channel and Queen Charlotte Sound. While Council staff have explained that no regulation is proposed in relation to the classification, it is incorrect to suggest that whales frequent this area regularly enough to justify this classification	Remove the Ecologically Significant Marine Site (Marine Mammal Whale) classification in these areas; OR The MEP should expressly recognise that marine farms do not have any adverse effect on whales.
Vol 4, Overlays, Marine Mammal (Dolphin), Map 18	Oppose the mapping in Port Underwood. The proposal may reflect the habitat of Hector's and Dusky dolphins, but does not reflect the habitat or distribution of other dolphin species.	Remove the Ecologically Significant Marine Site (Marine Mammal Dolphin) classification in this area, as frequency of dolphins is as episodic as most of the rest of the Marlborough Sounds; OR The MEP should expressly recognise that marine farms do not have any adverse effect on dolphins in this area.
Vol 4, Overlays, National Transportation Route Map	Oppose the National Transportation Route in Tory Channel and Queen Charlotte Sound being mapped to extend into all of the side bays, as this is not a true reflection of the major navigation route.	Amend the National Transportation Route map to show the route as being confined to the main part of Tory Channel and Queen Charlotte Sound.

Where changes are proposed, further consequential amendments may be required.
Alternative relief securing the same outcomes could be granted.

3. Apex Marine Farm Limited wishes to be heard in support of its submission.
4. If others make a similar submission, Apex Marine Farm Limited will consider presenting a joint case with them at a hearing.



.....
QAM Davies and A L Hills

Solicitors for Submitter

Date: 1 September 2016

Address for service of Submitter:

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PO Box 2

BLENHEIM 7240

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Contact person/s: Quentin Alexander Davies and Amanda Leigh Hills

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.

Form 6

Further submission in support of, or in opposition to, submissions on the publicly notified proposed
Marlborough Environment Plan

Clause 8 of Schedule 1, Resource Management Act 1991

To: The Marlborough District Council

Name of person making further submission: APEX MARINE FARM LIMITED

This is a further submission in opposition to or support of submissions on the proposed Marlborough Environment Plan (being a combined Regional Policy Statement, Regional Plan and District Plan).

We have an interest in the proposal that is greater than the interest of the general public, because we own marine farms in areas directly relevant to the submission below. There will be consequences not only for our company, but also for the people who process our mussels and oysters.

We set out in the **attached** schedule each of the submission points we support or oppose (or in some cases a combination of the two). In addition to the reasons listed for supporting or opposing a provision (as the case may be):

- a. We support the identified submissions, because what is proposed in accordance with:
 - i. The Resource Management Act 1991;
 - ii. A section 32 analysis; and
 - iii. Other relevant plan provisions and policy statements.
- b. We oppose the identified submissions, because what is proposed is not in accordance with:
 - i. The Resource Management Act 1991;
 - ii. A section 32 analysis; and
 - iii. Other relevant plan provisions and policy statements.

In addition, we **attach** three maps as part of our further submission. These maps depict:

- a. The Outstanding Natural Landscapes or Features in the overlay maps in Volume 4 of the proposed Plan, along with the extensions to that overlay as proposed by various submitters;
- b. The Outstanding Natural Character overlay in the maps in Volume 4 of the proposed Plan, along with the extensions to the areas mapped as outstanding, very high, high or moderate to high natural character as proposed by various submitters; and
- c. The Ecologically Significant Sites overlay in the maps in Volume 4 of the proposed Plan, along with the extensions to those areas as proposed by various submitters.

These maps are based on our best interpretation of the written descriptions of proposed extensions, as set out in various submissions. Maps identifying specific proposed demarcations were not provided by submitters. Our further submissions in relation to these points are set out in detail in the **attached** schedule.

We wish to be heard in support of our further submission.

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



Quentin A M Davies / Amanda L Hills

For and on behalf of:
Apex Marine Farm Limited

23 June 2017

Address for Service: Gascoigne Wicks, PO Box 2, Blenheim 7240, 79 High Street, Blenheim 7201.
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Contact person: Quentin Davies / Amanda L Hills

Note to person making further submission

A copy of your further submission must be served on the original submitter within 5 working days after it is served on local authority.

If you are making a submission to the Environment Protection Authority, you should use Form 16C.

SCHEDULE

Further Sub No.	Further Submission
1	We support the detailed further submissions of the Marine Farming Association Incorporated and Aquaculture New Zealand in their entirety.
2	We support the further submissions of Lloyd Sampson David in their entirety.
3	<p>We oppose the submission of the Friends of Nelson Haven and Tasman Bay Incorporated, PO Box 98, Rai Valley, 7145 (716).</p> <p>The particular parts of the submission we oppose are:</p> <p>Submission points 202 and 210, which seek to make amendments to the outstanding natural features and landscapes maps in Volume 4. In particular we oppose the extension of the overlay to include parts of the seascape in Tory Channel, including part of the waters of Ngaruru Bay.</p> <p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 1. The changes to the landscape map are not justified. <p>We seek that submission points 202 and 210 be disallowed.</p>
4	<p>We oppose the submission of The Pinder Family Trust, 4 Poynter Street, Blenheim 7201 (578); Guardians of the Sounds, PO Box 197, Picton 7220 (752); and Sea Shepherd New Zealand, 67 Milton Terrace, Picton 7220 (1146).</p> <p>The particular points we oppose are submission point 15 by each submitter, which seeks to identify the whole of Tory Channel and its side bays as areas of outstanding natural landscape and/or features.</p> <p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 1. There is no justification for making the areas identified an outstanding natural feature and landscape. <p>We seek that submission point 15 in each of the identified submissions be disallowed.</p>
5	<p>We oppose the submissions of:</p> <p>The Pinder Family Trust, 4 Poynter Street, Blenheim 7201 (578); and Guardians of the Sounds, PO Box 197, Picton 7220 (752); and Sea Shepherd New Zealand, 67 Milton Terrace, Picton 7220 (1146).</p> <p>The particular parts of the submissions we oppose are:</p> <p>Point 16 of each of the three identified submissions, which seeks to characterise Tory Channel as an outstanding natural feature and/or landscape.</p> <p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 1. Tory Channel lacks the values to be characterised as outstanding.

	<p>We seek that the whole of submission point 16 of each submitter listed above be disallowed.</p>
6	<p>We oppose the submission of Kenneth R and Sara M Roush, PO Box 446, Blenheim 7240 (845) and Port Underwood Association, PO Box 59, Blenheim 7240 (1842).</p> <p>The particular points we oppose are Roche submission point 21 and Port Underwood Association submission points 19 and 20, where they seek modification within Port Underwood to the natural character overlay in Volume 4 (as moderate-high, with some potential high or very high sections).</p> <p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 1. The modification sought is not justified. <p>We seek that the submission points identified above be disallowed.</p>
7	<p>We oppose the submission of:</p> <p>The Friends of Nelson Haven and Tasman Bay Incorporated, P O Box 98, Rai Valley 7145 (716).</p> <p>The particular part of the submission we oppose is:</p> <p>The inclusion of Tory Channel (including the seascape in Oyster Bay) in the outstanding natural character overlay in Coastal Natural Character Map 4, as per the map attached to The Friends' submission at page 43 (this does not appear to have been summarised by the Council).</p> <p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 1. The inclusion of that area is not justified. <p>We seek that the whole of that part of the submission be disallowed.</p>
8	<p>We oppose the submission of:</p> <p>The Friends of Nelson Haven and Tasman Bay Incorporated, P O Box 98, Rai Valley 7145 (716).</p> <p>The particular part of the submission we oppose is:</p> <p>Point 200, which suggests that the definition of "Ecologically significant marine sites" includes maps 17 and 18 (dolphins and whales).</p> <p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 1. As set out our original submission. <p>We seek submission point 200 be disallowed.</p>
9	<p>We oppose the submission of:</p> <p>The Friends of Nelson Haven and Tasman Bay Incorporated, P O Box 98, Rai Valley 7145 (716).</p> <p>The particular parts of the submission we oppose are:</p>

	<p>Points 197 and 198, which seek a rule to apply to map 17 and map 18 by amending the legends on map 17 map 18 to refer to a significant marine site.</p> <p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 1. That no rules apply to map 17 or map 18. Rather, the maps should make clear that the rules do not apply to that location. <p>We seek that the whole of submission points 197 and point 198 be disallowed.</p>
10	<p>We oppose the submission of:</p> <p>The Royal Forest & Bird Protection Society of New Zealand Incorporated, PO Box 2516, Christchurch 8140 (715).</p> <p>The particular part of the submission we oppose is:</p> <p>Paragraph 32 of the submission (which may not have been summarised), which seeks to identify in the Plan important bird areas contained in Forest & Bird (2014). <i>New Zealand Seabirds: Important Bird Areas and Conservation</i>. The Royal Forest & Bird Protection Society of New Zealand, Wellington, New Zealand. 72 pp. and Forest & Bird (2015). <i>New Zealand Seabirds: Sites on Land, Coastal Sites and Islands</i>. The Royal Forest & Bird Protection Society of New Zealand, Wellington, New Zealand.</p> <p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 1. The areas identified in the 2014 publication are very large. They are not suitable for inclusion in a regulatory regime designed to protect discrete areas of high value. 2. The sites and areas have not been through the <i>Ecologically significant marine sites in Marlborough: recommended protocols for survey and status monitoring</i> (2014). 3. Should the Tawhitinui Bay important bird area be included, the plan should note that the marine farms in the bay were present before the colony was established, and consequently the marine farms and associated activity does not affect the colony. <p>We seek that the submissions identified above be disallowed. In the alternative we seek the addition to the plan identified above.</p>
11	<p>We oppose the submission of:</p> <p>Friends of Nelson Haven and Tasman Bay Incorporated, PO Box 98, Rai Valley 7145 (716)</p> <p>The particular part of the submission we oppose is:</p> <p>Submission point 194 which suggests that there should not be a general permitted noise standard, as in Policy 16.2.3, and that noise is undesirable around bird colonies, dolphins and feeding areas.</p> <p>The reasons for our opposition are:</p>

	<ol style="list-style-type: none"> 1. It is unclear what is proposed in the alternative. 2. There are more practical and effective ways to manage the effects of noise from activities on wildlife. <p>We seek that the whole of submission point 194 be disallowed.</p>
12	<p>We oppose the submission of:</p> <p>The Friends of Nelson Haven and Tasman Bay Incorporated, PO Box 98, Rai Valley 7145 (716).</p> <p>The particular part of the submission we oppose is:</p> <p>Submission point 93 in relation to Issue 8A, page 8-3: Marine Environments. If the submission can be interpreted as seeking to include “feeding areas of seabirds including the threatened king shag in the Sounds... [as] ecologically significant marine sites” (which we deny) then we oppose that part of the submission.</p> <p>The reasons for our opposition are:</p> <ol style="list-style-type: none"> 1. The submitter’s own publications suggest that the conservation management priorities for the king shag are: <ol style="list-style-type: none"> a. Protecting breeding grounds and ensuring that boats do not approach those colonies closer than 100 metres during the breeding season; b. Minimising seabird bycatch; c. Introducing pest quarantine measures to protect king shag breeding colonies; and d. Establishing king shags at new colony sites. 2. The proposed area has not been assessed through the protocol used to identify the ecologically significant marine sites in Marlborough. 3. Feeding areas are diffuse. The present state of knowledge does not lend itself to use of broad areas as a decision-making tool. <p>If submission point 93 has been validly made, we seek that it be disallowed.</p>
13	<p>We oppose the submission of:</p> <p>The Friends of Nelson Haven and Tasman Bay Incorporated, P O Box 98, Rai Valley 7145 (716).</p> <p>The particular part of the submission we oppose is:</p> <p>Point 212, where they seek to insert into the biodiversity criteria for significance at Appendix 3, Volume 3, “the site is an important feeding area for indigenous species.”</p> <p>The reason for our opposition is:</p>

	<p>1. Such an addition to the criteria changes the focus from discreet benthic communities of importance to broad areas in which effects do not need to be as tightly constrained.</p> <p>We seek that the whole of submission point 212 be disallowed.</p>
14	<p>We oppose the submission of:</p> <p>The Royal Forest and Bird Protection Society of New Zealand Incorporated, PO Box 266, Nelson 6140 (715).</p> <p>The particular part of the submission we oppose is:</p> <p>Submission point 96, which seeks to amend policy 8.1.1 to refer to the ecological significance criteria in Appendix 3 and then amend Appendix 3 to recognise important bird feeding areas as a criteria for determining ecological significance.</p> <p>The reasons for this opposition are:</p> <ol style="list-style-type: none"> 1. Set out in the Marine Farming Association Incorporated's original submission on policy 8.1.1. 2. In addition, the amendment to Appendix 3 is not warranted. The significance criteria has been used to identify discreet areas which warrant a high level of protection. A different form of protection may be warranted for broader areas. <p>We seek that the whole of submission point 96 be disallowed.</p>
15	<p>The Bay of Many Coves Residents Association and Ratepayers Association Incorporated, 72 Ferry Road, Spring Creek 7202 (1190).</p> <p>The particular part of the submission we oppose is:</p> <p>Point 34 as it applies to preventing anchoring within a buffer zone around an ecologically significant marine site.</p> <p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 1. Anchoring may not be appropriate within an ecologically significant marine site, but ought to be permitted in the buffer zone. <p>We seek that point 34 of the submission be disallowed.</p>
16	<p>The particular parts of the submissions we oppose are:</p> <p>Pinder submission point 49; Guardian submission point 49; Sea Shepherd submission point 49; and The Marlborough Environment Centre submission point 43, which seek to prohibit dredging and anchoring in a buffer zone around ecologically significant sites.</p> <p>The reasons for our opposition are:</p> <ol style="list-style-type: none"> 1. The creation of a buffer zone should be undertaken on a case by case basis, recognising that marine farming structures regularly create a defacto buffer zone of their own.

	<p>2. Anchoring will be appropriate in the buffer zone.</p> <p>We seek that the part of the submission points identified above which refers to the area in the buffer zone be disallowed.</p>
17	<p>We oppose the submission of:</p> <p>The Kenepuru and Central Sounds Residents Association Incorporated, 2725 Kenepuru Road, RD 2, Picton 7282 (869).</p> <p>The particular part of the submission we oppose is:</p> <p>Submission point 12, which seeks to insert into policy 13.1.1 after the words “in areas with” the phrase “, or in proximity to,”.</p> <p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 1. The introduction of the concept of proximity makes it impossible to judge with certainty whether an activity is or is not in accordance with the policies. <p>We seek that the whole of submission point 12 be disallowed.</p>
18	<p>We oppose the submission of:</p> <p>Port Underwood Association, PO Box 59, Blenheim 7240 (1042).</p> <p>The particular part of the submission we oppose is:</p> <p>Point 2, where they submit that policy 4.12 should be altered so that consents for more than 20 years should not be granted in the public space.</p> <p>The reasons for our opposition are:</p> <ol style="list-style-type: none"> 1. 20 years is the statutory minimum under the RMA. 2. Prescribing the statutory minimum as a maximum in the Plan creates inefficiencies, by increasing the cost (both public and private) of consenting. 3. Consent for more than 20 provides greater certainty for businesses operating in the public space and ensures a financial return on investments. 4. Consents for more than 20 years are often justifiable, such as where the effects are well understood or able to be managed through adaptive management. <p>We seek that Point 2 of the submission be disallowed.</p>
19	<p>We oppose the submission of:</p> <p>Pete and Takutai Beech, 316 Waikawa Road, Waikawa, Picton 7220 (699).</p> <p>The particular part of the submission we oppose is:</p>

	<p>Point 5, where he submits that all shipping be prohibited in Tory Channel.</p> <p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 1. That shipping is appropriate in Tory Channel. <p>We seek that the whole of submission point 5 be disallowed.</p>
20	<p>We oppose the submissions of:</p> <p>The Pinder Family Trust, 4 Poynter Street, Blenheim 7201 (578); The Guardians of the Sounds, PO Box 197, Picton 7220 (752); and Sea Shepherd New Zealand Incorporated, 67 Milton Terrace, Picton 7220 (1146).</p> <p>The particular parts of the submissions we oppose are:</p> <p>The Pinder Family Trust point 24, The Guardians of the Sounds point 24 and Sea Shepherd New Zealand Incorporated point 24.</p> <p>The reason for our opposition is:</p> <ol style="list-style-type: none"> 1. The case has not been made for a substantial marine protected area/marine park, including all of Queen Charlotte Sound and Tory Channel. <p>We seek that the whole of submission point 24 in each of the submissions be disallowed.</p>
21	<p>We oppose the submission of:</p> <p>The Kenepuru and Central Sounds Residents Association Incorporated, 2725 Kenepuru Road, RD2, Picton 7282 (868).</p> <p>The particular part of the submission we oppose is:</p> <p>Point 13, which seeks to amend policy 7.2.4 to require, at a resource consent level, an assessment of cumulative effects of all similar activities in the locality.</p> <p>The reasons for our opposition are:</p> <ol style="list-style-type: none"> 1. Effectively, this change would require every consent holder to justify the activity of every other consent holder undertaking the same activity or similar activities. It is inefficient to do that in a resource consent context. 2. The proposed amendment would make the cost of obtaining consent for a mooring or jetty significantly more expensive. <p>We seek that the whole of submission point 13 be disallowed.</p>
22	<p>We support the submission of:</p> <p>Port Marlborough New Zealand Limited, c/o Mitchell Partnership, PO Box 489. Dunedin 9054 (433).</p>

	<p>The particular parts of the submission we support are:</p> <p>Submission points 145, 146, 147, 148, and 151.</p> <p>The reason for our support is:</p> <ol style="list-style-type: none">1. These are appropriate changes to the rules in the Port Landing Area zone. <p>We seek that the whole of the submission points listed above be allowed.</p>
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Marlborough Sounds Marine Farms and Proposed Marlborough Environment Plan

Outstanding Natural Landscape or Features - MEP and Submitters

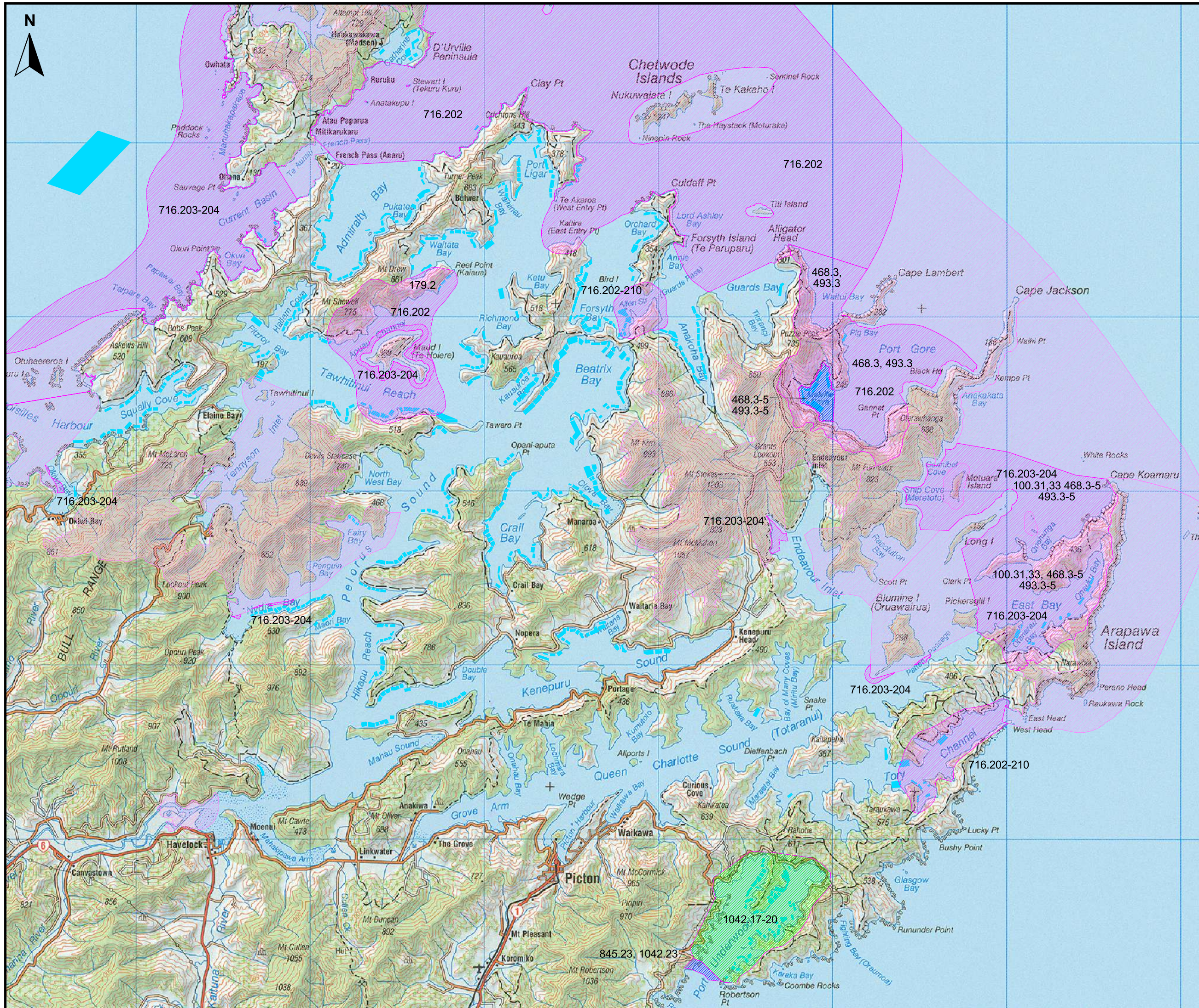
- KEY**
- █ Granted Marine Farm
 - █ MEP - Outstanding Natural Landscape or Features
 - █ Submitters - Outstanding Natural Landscape or Features
- 800.5 Submitter Number & Point

MEP data supplied by Marlborough District Council. Marine Farm data sourced from MDC Open Data (July 2016). Topo Map data from LINZ Data.

Produced by Draughting Plus Ltd from Marine Farm Data supplied by Marlborough District Council. The accompanying material has been released by Council from its information repositories as they exist as at June 2016. Council does not accept any responsibility for the initial and ongoing accuracy of the material. It is the responsibility of the recipient to make such checks as the recipient considers appropriate to ensure accuracy.

Scales (at A3)
 Main Map 1:200,000
 Port Hardy Inset 1:200,000
 Clifford Bay Inset 1:250,000

Prepared: 15th June 2017



Marlborough Sounds Marine Farms and Proposed Marlborough Environment Plan

Outstanding Natural Character MEP and Submitters

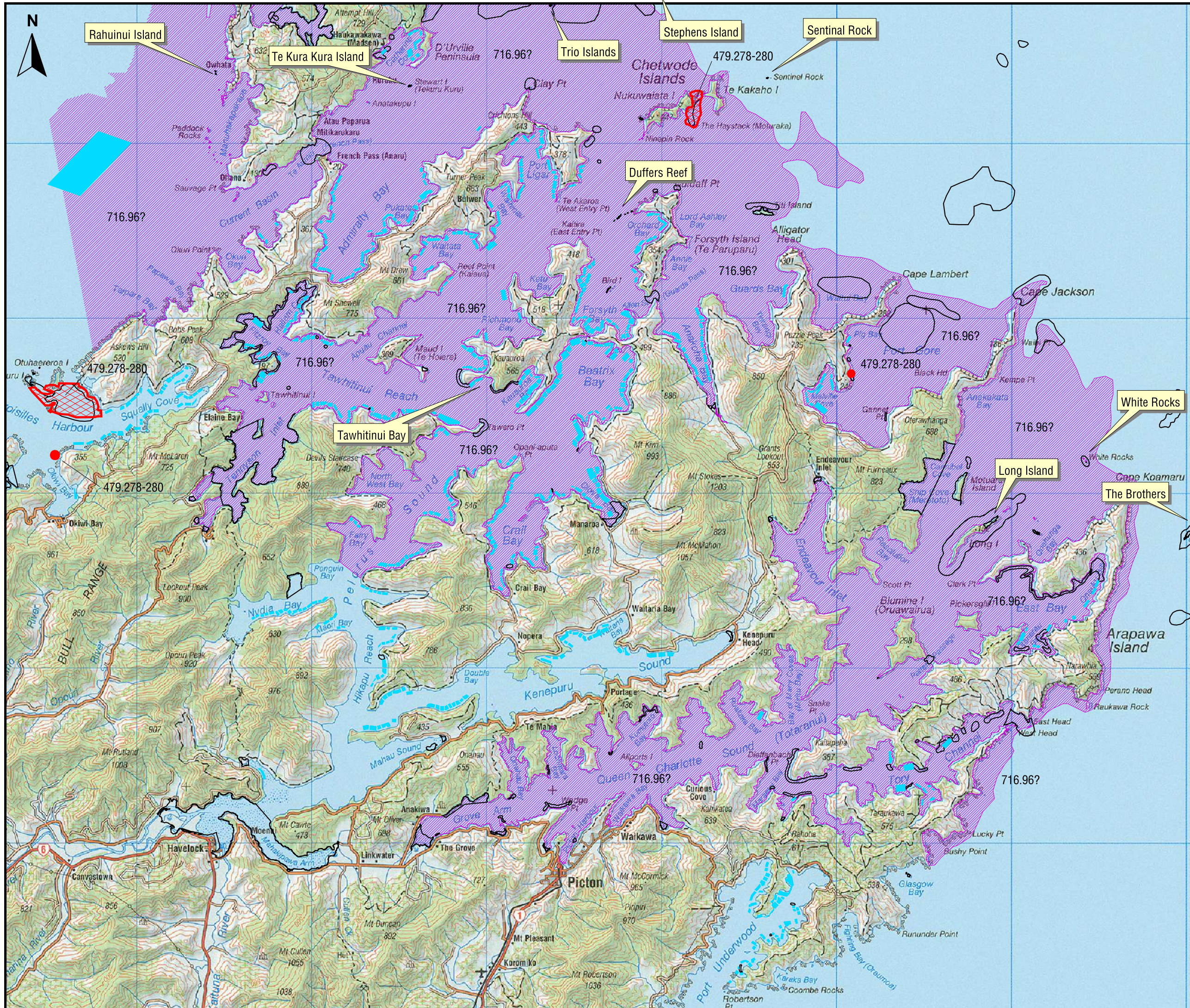
- KEY**
- Granted Marine Farm
 - MEP - Outstanding Coastal Natural Character
 - Submitters - Outstanding Coastal Natural Character
 - Submitters - Very High Coastal Natural Character
 - Submitters - Moderate - High Coastal Natural Character

MEP data supplied by Marlborough District Council. Marine Farm data sourced from MDC Open Data (July 2016). Topo Map data from LINZ Data.

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Scales (at A3)
 Main Map 1:200,000
 Port Hardy Inset 1:200,000
 Clifford Bay Inset 1:250,000

Prepared: 15 June 2017



Marlborough Sounds Marine Farms and Proposed Marlborough Environment Plan

MEP Ecologically Significant Marine Sites and Submissions

- KEY**
- Granted Marine Farm
 - MEP - Ecologically Significant Marine Sites
 - Ecologically Significant Marine Sites New/Amended (DoC/MDC)
 - Proposed Important Bird Areas at Sea - Forest & Bird (2014)
 - Site Name
 - Proposed Important Bird Areas on Land - Forest & Bird (2015)

MEP data supplied by Marlborough District Council. Marine Farm data sourced from MDC Open Data (July 2016). Topo Map data from LINZ Data.

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Scales (at A3)
Main Map 1:200,000

Prepared: 23 June 2017

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 Mcllveney	Kaye.Mcllveney@marlborough.govt.nz