

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

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

**EnvC-CHC-2020-**

**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 in relation to a decision on the proposed Marlborough Environment Plan

**BETWEEN** **AJ KING FAMILY TRUST & SA KING FAMILY TRUST**

**Appellant**

**AND** **MARLBOROUGH DISTRICT COUNCIL**

**Respondent**

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

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Next Event Date:  
Judicial Officer:

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**GASCOIGNE WICKS  
LAWYERS  
BLENHEIM**

Solicitor: Brian A Fletcher  
(bfletcher@gwlaw.co.nz)

Appellant's Solicitor  
79 High Street  
PO Box 2  
BLENHEIM 7240  
Tel: 03 578 4229  
Fax: 03 578 4080

## **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 AJ King Family Trust & SA King Family Trust (“AJ and SA King”) appeal against part of the decision of the Marlborough District Council (“MDC”) on the proposed Marlborough Environment Plan (“proposed Plan”).
- 2 AJ and SA King made a submission on the proposed Plan.

### **Trade Competition**

- 3 AJ and SA King are not trade competitors 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 AJ and SA King received notice of the decision on 21 February and 3 March 2020.

### **The Decision**

- 6 The parts of the decision that AJ and SA King are appealing are:

#### *Landscape and Coastal Natural Character*

- 7 The extent of mapping of Outstanding Natural Landscape (ONL) and Coastal Natural Character (NC) in Landscape Maps 4 and 5, and Coastal Natural Character Rating Maps 1, 2, 3 and 4, of Volume 4 of the proposed Plan.
- 8 The methodology and content in the Landscape Schedule of Values at Appendix 1 of Volume 3 of the proposed Plan, in particular the lack of recognition of marine farms as part of the existing environment of the Marlborough Sounds.
- 9 The methodology and content in the Coastal Natural Character Schedule of Values at Appendix 2 of Volume 3 of the proposed Plan, in particular the lack

of recognition of marine farms as part of the existing environment of the Marlborough Sounds.

- 10 The Significance Criteria in Appendix 4 of the proposed Plan.

*Ecologically Significant Marine Sites*

- 11 The existence of the buffer around Ecologically Significant Marine Site 3.8 that overlaps with marine farm 8573, on Ecologically Significant Marine Site Maps 3 and 4, of Volume 4 of the proposed Plan.
- 12 The existence of the buffer around Ecologically Significant Marine Site 3.8 that overlaps with marine farm 8188, on Ecologically Significant Marine Site Maps 3 and 4 of Volume 4 of the proposed Plan.
- 13 The existence of the buffer around Ecologically Significant Marine Site 3.15 that overlaps with marine farm 8544, on Ecologically Significant Marine Site Map 9 of Volume 4 of the proposed Plan.
- 14 Rule 16.6.6 of Volume 2 of the proposed Plan.
- 15 Rule 16.7.7 of Volume 2 of the proposed Plan.

**Reasons for the Appeal**

- 16 While AJ and SA King are generally supportive of the proposed Plan provisions, AJ and SA King 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) Is not contrary to Part 2 and other provisions of the Act;
  - (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.
- 17 In particular, and without limiting the generality of the above paragraph:

*Landscape and Coastal Natural Character*

*Landscape – Reasons*

- 18 With regards to the mapping:

- (a) The evaluation must be at the appropriate geographic scale treating landscape, feature or natural character areas as a whole.
- (b) ONF and ONL boundaries 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) The values identified in Appendix 1 of Volume 3 of the proposed Plan are largely terrestrial characteristics or reflect the interplay between land and sea.
- (e) An assessment of biophysical attributes is the appropriate starting point for assessment.

*Natural character and Landscape reasons generally*

19 In relation to natural character and landscape more generally:

- (a) The scheduling of landscapes, features and natural character needs to go beyond broad generic descriptions of characteristics and values if a schedule is to serve its intended purpose in assisting consent application processes and guiding future users of the Plan. 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.
- (b) 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.
- (c) In line with that, in terms of the new landscape cumulative effects policy 7.2.12, recognition should be given to existing modifications,<sup>1</sup> because cumulative effects in the coastal environment are best addressed through a strategic planning approach.<sup>2</sup>
- (d) In relation to policy 13.2.1(a) it is the values and not the characteristics and qualities of landscapes and features which are relevant. In relation

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<sup>1</sup> As per the MFA's submission on natural character cumulative effects policy 6.2.7 (now 6.2.6 in the Decisions Version), which AJ and SA King supported in supporting the entirety of MFA's submissions.

<sup>2</sup> In accordance with policy 7(2) NZCPS 2010.

to policy 13.2.1(g) it is community expectations and not individual expectations about coastal amenity values which are relevant.

- (e) The decision incorrectly equates amenity as a subset of landscape, and further equates visual amenity as amenity generally.
- (f) The methodology used to reach the issues, objectives, policies, other methods and mapping on landscape and natural character was contrary to law and good practice.

#### *Ecologically Significant Marine Sites*

- 20 Rules 16.6.6 and 16.7.7 refer to “deposition”, though the underlying reason for imposing these rules refers to deposition from dredged materials<sup>3</sup>. The rules should reflect the decision, and therefore should refer specifically to deposition of dredged materials.
- 21 Marine farms 8573, 8188 and 8544 act as a buffer to Ecologically Significant Marine Sites 3.8 and 3.15 respectively, protecting the sites from other activities by the farm’s presence.

#### **Relief Sought**

- 22 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.
- 23 The Appellant agrees to participate in mediations or other alternative dispute resolution of the proceeding.

#### **Attached Documents**

- 24 The following documents are **attached** to this notice:
  - (a) **Schedule A** as referred to above;
  - (b) A copy AJ and SA King’s submission (**Schedule B**);
  - (c) A copy of the relevant parts of the decision (**Schedule C**); and
  - (d) A copy of persons to be served with this notice (**Schedule D**).

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<sup>3</sup> Decision on Topic 6 Indigenous Biodiversity, at [177], [179] and [198].

- 25 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.



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Brian A Fletcher  
Solicitor for the Appellant

**Address for service of the Appellant**

Gascoigne Wicks, 79 High Street, Blenheim 7201.

Telephone: 03 578 4229

E-mail: [bfletcher@gwlaw.co.nz](mailto:bfletcher@gwlaw.co.nz) | [scook@gwlaw.co.nz](mailto:scook@gwlaw.co.nz)

Contact persons: B A Fletcher, Solicitor; Shar Cook, 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.

Decisions Version	Relevant part of provision	Relief sought
Landscape Map 4, Volume 4	Mapping	Amend the ONL mapping of Sheep Pen Bay/Beatrix Bay and Grant 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 5, Volume 4	Mapping	Amend the ONL mapping of Grant 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 1, Volume 4	Mapping	Amend the mapping of High natural character of Whakatahuri Bay/Forsyth 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 2, Volume 4	Mapping	Amend the mapping of High natural character of Whakatahuri Bay/Forsyth 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 Map 3, Volume 4	Mapping	Amend the mapping of High and Very High natural character of Richmond Bay, Canoe Bay, Sheep Pen Bay/Beatrix Bay and South East 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 mapping of High natural character of Sheep Pen Bay/Beatrix 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.

Decisions Version	Relevant part of provision	Relief sought
Appendix 1, Volume 3	Methodology of appendix/values tables	Amend to recognise that marine farms are part of the existing environment of the Marlborough Sounds. 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): <u><i>“Some bays contain existing marine farms, but this does not compromise [relevant area’s name] current natural values.”</i></u>
Appendix 2, Volume 3	Methodology of appendix/values tables	Amend to recognise that marine farms are part of the existing environment of the Marlborough Sounds. 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): <u><i>“Some bays contain existing marine farms, but this does not compromise [relevant area’s name] current natural values.”</i></u>
Appendix 4, Volume 3	Text of appendix	<u>Delete appendix in its entirety.</u>
Ecologically Significant Marine Site Maps 3 and 4, Volume 4	Blue overlay denoting buffer around site 3.8	Remove buffer where it overlaps with marine farm 8573.
Ecologically Significant Marine Site Maps 3 and 4, Volume 4	Blue overlay denoting buffer around site 3.8	Remove buffer where it overlaps with marine farm 8188.
Ecologically Significant Marine Site Map 9, Volume 4	Blue overlay denoting buffer around site 3.15	Remove buffer where it overlaps with marine farm 8544.
Rule 16.6.6, Volume 2	Text of rule	Amend rule to read:  Any dredging, bottom trawling, or deposition <u>of dredged material</u> within the buffer for any Ecologically Significant Marine Site specified in Appendix 27.
Rule 16.7.7, Volume 2	Text of rule	Amend rule to read:  Dredging, bottom trawling, deposition <u>of dredged material</u> and reclamation within any Category B Ecologically Significant Marine Site listed within Appendix 27.

<b>Decisions Version</b>	<b>Relevant part of provision</b>	<b>Relief sought</b>
Appendix 27, Volume 3	Text of appendix	Make consequential amendments from removal of buffer which overlays marine farms 8573, 8188 and 8544.

**Schedule B:** Submissions of AJ King Family Trust and SA King Family Trust

## **Proposed Marlborough Environment Plan Submission**

Attention Planning Technician  
Marlborough District Council  
PO Box 443  
Blenheim 7240  
[mep@marlborough.govt.nz](mailto:mep@marlborough.govt.nz)

AJ King Family Trust & SA King Family Trust (Andrew & Sandra King)

6882 Kenepuru Road, Picton 7282

sandra.king@xtra.co.nz

### **Scope of Submission – Providing for Aquaculture in Marlborough**

#### **1.0 Introduction**

We are a family owned mussel farming and spat catching business and have lived in the Kenepuru Sounds since 1982. We currently employ two full time staff in addition to ourselves. A total of three families are employed within the business. One of the staff has a child that attends the local Waitaria Primary School. Over the 20 odd years that we have employed people permanently our business has paid for 5 Skippers tickets. We have developed a successful spat catching operation. Locally caught Marlborough Sounds and Golden Bay spat is seeded onto our farms and we are able to supply processors with mussels when Kaitaia origin spat is unavailable.

Our four children have attended the local Kenepuru Sound, Waitaria Bay School before going to boarding school in Nelson. . Our 25 year old son is working in the business and is interested in taking over the operation.

We are involved in local Sounds community activities including the Hopai Bay Sports Committee, Nopera Bay Golf Club Committee (Sandra) has been treasurer for ten years. Andrew was on the Marine Farming Association committee for many years and Sandra is a Justice of the Peace. Previously they have been involved in with Playgroup, Waitaria Bay School Committee, and local school Board of Trustees.

We support the submissions, concur with the issues, and in particular request the proposed relief of, the Marine Farming Association (MFA) and Aquaculture New Zealand (AQNZ).

#### **2.0 Key issues for aquaculture in Marlborough**

##### **2.1 Recognise that existing aquaculture is an appropriate activity in the CMA**

The provisions of the Marlborough Environment Plan (MEP) should recognise that marine farming is a legitimate activity which supports economic, social and cultural wellbeing, is consistent with the values of the Coastal Marine Area (CMA) and is important for Marlborough.

Examples of applicable provisions include:

	<b>Issue</b>	<b>Provisions</b>	<b>Relief sought</b>
1	Promote economic development	Vol 1, Chapter 1, Guiding Principles and associated provisions	Amend to include economic development and associated relief
2	Recognise a range of uses in the Sounds	Vol 1, Chapter 1, Guiding Principles and associated provisions	Amend to recognise that the Sounds has a diverse range of uses and associated relief
3	Recognise infrastructure	Vol 1, Chapter 4, Use of Natural and Physical Resources and associated provisions	Specifically recognise the infrastructure used for commercial purposes at Elaine Bay, Oyster Bay and Okiwi Bay and associated relief
4	Social and cultural uses are part of the character of the Sounds	Vol 1, Chapter 4, Qualities and Values of the Sounds and associated provisions	Recognise that the visual, ecological and physical qualities of the Sounds have been altered by social and cultural use and associated relief
5	Recognise existing uses	Vol 1, Chapter 4, Use of Natural and Physical Resources and associated provisions	Recognise existing uses of natural and physical resources and associated relief

## 2.2 Clearly define the values that the MEP is seeking to protect

It is very important that the MEP clearly and consistently identifies where values are significant, what those values are, and what adverse effects are to be avoided. This will provide comfort to both industry and the community that an appropriate balance is being achieved at a strategic level within the CMA without re-litigating sustainable use and development on a case by case basis.

Examples of applicable provisions include:

	<b>Issue</b>	<b>Provisions</b>	<b>Relief sought</b>
6	Natural character	Vol 1, Chapter 6, Natural Character and associated provisions	Include appropriate definitions of natural character, revise the methodologies and maps, recognise existing use and appropriate ongoing use and development in areas of natural character and associated relief
7	Landscape	Vol 1, Chapter 7, Landscape and associated provisions	Include appropriate definitions of outstanding features and landscape, revise the methodologies and maps, recognise existing use and appropriate ongoing use and development in areas of natural landscape and features and associated relief
8	Landscape	Vol 1, Chapter 7, Landscape and associated provisions	The identification of the entirety of the Marlborough Sounds as an ONL is not appropriate and should be revised
9	Indigenous biodiversity	Vol 1, Chapter 8, Indigenous Biodiversity and associated provisions	Adopt the cascading approach to manage effects on indigenous biodiversity as set out in the NZCPS and recognise existing use and appropriate ongoing use and development in areas of indigenous biodiversity and associated relief
10	Natural character, landscape	Vol 1, Chapter 6, Natural Character and Chapter 7, Landscape and Chapter 8,	Recognise existing uses of the coastal marine area and do not seek that those change; and Recognise that minor or transient effects do not

	and indigenous biodiversity	Indigenous Biodiversity and associated provisions	need to be avoided; and Recognise that avoidance can be achieved through restoration and enhancement, rather than simply preventing an application from occurring; and Only require avoidance where practicable, rather than complete avoidance; and Associated relief
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In addition I have farm(s) that are situated within the natural character and/or landscape and/or areas of indigenous biodiversity. These farms have been an established and productive part of the Marlborough Sounds for many years and it is important that they are recognised as such and are allowed to continue.

The areas that I am particularly concerned with are marked with 'Yes' and highlighted in the table over the page, including a reference to the volume and map in the MEP.

<b>Farm:</b>	<b>8204</b>	<b>8573</b>	<b>8260</b>	<b>8544</b>	<b>8338</b>	<b>8043</b>	<b>8130</b>	<b>8148</b>	<b>8188</b>
<b>Area:</b>	<b>Richmond Bay</b>	<b>Canoe Bay</b>	<b>Sheep Pen Bay</b>	<b>Grant Bay</b>	<b>Southeast Bay</b>	<b>Admiralty Bay</b>	<b>Whakahuri Bay</b>	<b>Anakoha Bay</b>	<b>Hallam Cove</b>
Potential Issues									
Ecologically Significant Marine Farms Reference Volume 4: <b>Significant Marine Series Index – Ecologically Significant Marine Sites</b>	No	Yes Map 8	No	Yes Map 9	No	No	No	No	Yes Map 4
Significant sites for dolphins Reference Volume 4: <b>Significant Marine Series Index – Marine Mammals (Dolphin)</b>	No	No	No	No	No	Yes Map 18 (2.17)	No	No	No
Significant sites for whales	No	No	No	No	No	No	No	No	No
Areas of outstanding natural landscapes Reference Volume 4: <b>Landscape Index</b>	No	No	Yes Map 5	Yes Map 4	No	No	No	No	No
Areas of outstanding natural character Reference Volume 4: <b>Natural Character Index</b>	No	No	No	No	No	No	No	No	No
Areas of very high natural character Reference Volume 4: <b>Natural Character Index</b>	No	No	No	No	No	No	No	No	No
Areas of high natural character Reference Volume 4: <b>Natural Character Index</b>	Yes Map 1	Yes Map 3	Yes Map 4	No	Yes Map 3	No	Yes Map 2	No	No



**8204** (Lc 114) north Richmond Bay – 20 or 30 years ago this bay was 50% grass, it is now 95% blanket of kanuka with the balance being significant scattered wilding pines, cleared pasture recently aerial sprayed to control scrub, a house or two and wool shed & yards with wharf. If this bay has HNC (high natural character) which it may well have, then all the Sounds has HNC and HNC can include primary economic activity. I note Richmond is listed as sensitive King Shag feeding area. I have seen a King Shag come to the surface in the middle of a mussel farm with a flounder in its beak. Significant because it caught the flounder inside mussel farm and was happily fishing with the presence of me & my boat approx. 50m away. They are not too shy and there evidently are “witch flounder” present inside mussel farm boundary. This mussel farm is a very healthy and productive farm producing in the area of 40 tonnes/ha/year.

**8573** (Lc 206) entrance Canoe Bay – once again HNC is zoned adjacent to this farm, the adjacent landscape is kanuka with many scattered wild pines. Once again if it has HNC with pines & marine farms present, then it is arguable that mussel farms are compatible with HNC status. If the MDC’s value judgement is that wild pines are okay & marine farms are not okay on renewal then I as a Sounds resident will argue. Ecologically Significant Marine Sites, I note that this marine farm is in an ESMS, I have been unable to get adequate information from proposed plan to know what the issue is. If it is concern for Elephant fish breeding, I ask that it be proven the farms presence has a negative impact.

**8260** (P464) Sheep Pen Point south east Beatrix – Beatrix Bay is listed as a King Shag feeding area. Two facts, 1) I have seen a King Shag come to surface in the middle of a mussel farm with a flounder in it’s beak. Proving there are witch flounder inside mussel farms & they fish happily when humans are present. 2) surveys of King Shag population show population to be at least stable and there is evidence the Clova gannet population has expanded in the time of mussel farm development. High Natural Character, I object to the implication that a mussel farm adjacent to a point that is dominated by large wilding pines will be threatened on renewal because of the HNC status of the adjacent Point. If it is HNC with pines & mussel farm present then logically that should remain the situation. I find pine trees visually more noticeable than mussel farms. Outstanding Natural Landscape Or Features – object to Sheep Pen Point being ONLF, it does not reach that value even without the presence of wilding pine trees. I argue that if this point does justify ONLF with pine trees & mussel farm present then logically the mussel farm is an acceptable part of that landscape. This mussel farm is a very productive farm, in area of 40tonne/ha/year.

**8544** (P661) Grants Reef – appears to be beside an Ecologically Significant Marine Site. This farm has been benthic surveyed and is positioned significantly seaward of known rubble & rock habitat. Also from observation & current meter records the water flow is always from the adjacent reef towards the mussel farm. Logically the mussel farm will not impact on the reef. Outstanding Natural Landscape or Features, I object to this area having ONLF status because of the presence of wilding pines & plantation pines in it. If exotic pines trees are acceptable within a NZ ONLF landscape then I argue that the structures required to farm our native mussel are acceptable within a NZ landscape. Because of the presence of pine trees within the area & dominating the backdrop to the area this area does not qualify as ONLF.

**8338** (Lc 26) South East Bay – High Natural Character, I object to this status. Back drop is large scale commercial forestry with holiday houses, wharfs & a large red shed on the water front. Once again I argue that if the highly modified land backdrop constitutes HNC then it is double standards to decide mussel farming structures are unacceptable in the same landscape.

**8043** (Lc 290) Admiralty Bay – this site is affected only by the marine mammals (dolphins) issue, Dusky Dolphins to be precise. The evidence supporting the concerns for Dusky Dolphins welfare to date has been vague and theoretical with no quantitative facts supporting it.

**8130** (Lc 104) Whakatahuri Bay – The shore is zoned “High Natural Character” is reverting pasture now dominated by pine trees, kanuka & tawhini. If it has HNC with existing pine trees & marine farms, then it should remain HNC with the mussel farm present.

**8188** Hallam Cove – listed as an Ecologically Significant Marine Site. From reading the proposed plan I cannot get adequate information about this issue to know what the ecological issue is. If it is Elephant fish breeding, I ask is there evidence my marine farm is having a negative impact? High Natural Character, once again if this is affected by a neighbouring HNC area then the community needs to decide if they want primary economic activity or not. I note in the MEP Introduction it is acknowledged that Primary Production is a significant portion of Marlborough’s total economic activity.

I request that the MDC undertake a review of these areas and provide appropriate justification for their extent and definition. I specifically seek acknowledgment within the schedules to these natural character and landscape areas that my existing marine farms are not causing adverse effects.

**2.3 Protect existing marine farms from adverse effects**

Clean water and healthy ecosystems are important to me in order to continue to produce safe, quality seafood with environmental integrity. Terrestrial and coastal activities can negatively impact water quality and have the potential to decrease opportunities to harvest, increase monitoring and testing costs and ultimately have an adverse impact on the industry’s international reputation and market advantage. I specifically seek provisions which preserve and enhance coastal water quality.

Examples of applicable provisions include:

	<b>Issue</b>	<b>Provisions</b>	<b>Relief Sought</b>
11	Contamination of coastal waters	Vol 1, Chapter 15, Resource Quality (Water, Air, Soil) and associated provisions	Avoid sewage and effluent discharges where they can contaminate coastal waters and particularly marine farms and associated relief.
12	Contamination of coastal waters	Vol 1, Chapter 15, Resource Quality (Water, Air, Soil) and associated provisions	Create a marine farm protection overlay within 1000m of the boundary of any marine farm.

**2.4 Fair and reasonable contribution to the sustainable management of the CMA**

I support the implementation of coastal occupation charges if they:

- recognise existing contributions to the sustainable management of the CMA
- are fair and reasonable and apply to all users gaining private benefit from occupation of the CMA
- are based on actual costs incurred in the sustainable management of the CMA
- are open to engagement on their value and nature and provide a framework for collaborative and strategic decision making between those users who are contributing; and
- are proposed in the context of more certainty;

### **3.0 Further issues specific to my business**

All of our marine farm sites have at some point been through a rigorous process to have been created in first place.

I ask that your Plan supports marine farming because the community benefits significantly from the economic activity it creates. Marine farms require security in order to operate the business necessary to realise their potential. Therefore marine farms need "Controlled" status.

Coastal Occupancy Charges can be justified only when the marine farm owner has meaningful security to the site he depends on to earn the income needed to pay the COC.

Vol 1, Chapter 4 Use of Natural & Physical Resources. Objective 4C – I question the merit & right of the plan to decide to "enhance" certain qualities/characteristics of the Marl Sounds. The problem is that these characteristics that the MDC decides to focus on & enhance will vary over time. This is an open ended impossible to define situation which will allow different groups to decide what their favourite area looks like.

Vol 1 Chapter 6 Natural Character, Policy 6.2.3 & Policy 6.2.5. I support both these policies. Marine farming Industry has to have the opportunity to influence the Council rules referred to in Policy 6.2.5. I argue that a mussel farm has significantly less impact on natural character & natural landscape or features than does subdivision for dwellings or pine trees or roads or wharves or power lines. I note that land activities (farming, forestry, road building, subdivision for coastal dwellings etc) will collectively have a greater negative impact on the marine ecology than all the mussel farms combined will have .

### **4.0 Hearing**

I wish to be heard in support of my submission

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

### **5.0 Trade advantage**

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



Signature

Bruce Cardwell as Agent for AJ King Family Trust & SA King Family Trust

Date: 31<sup>st</sup> August 2016

## **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**

<b>Name / Organisation</b>	<b>Contact</b>	<b>Address for Service</b>
Marlborough District Council	Kaye Mcllveney	Kaye.Mcllveney@marlborough.govt.nz