

# Proposed Marlborough Environment Plan

## Topic 5: Landscape

**Hearing dates:** 26 – 28 February and 1 March 2018

**S42A Report Writer:** James Bentley and Maurice Dale

**Conflicts of Interest:** None

**Interim decision:** None

*(Note: A list of conflicts of interest which arose during the process are available to view on the Marlborough District Council Website)*

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**List of Abbreviations**

BML	Boffa Miskell Limited
CMA	Coastal Marine Area
HALF	High Amenity Landscape and Feature
PMEP	Proposed Marlborough Environment Plan
MDC	Marlborough District Council
MHWS	Mean High Water Spring mark
MPI	Ministry for Primary Industries
MSRMP	Marlborough Sounds Resource Management Plan
NPSPF	National Policy Statement for Plantation Forestry
NZCPS	New Zealand Coastal Policy Statement 2010
ONF	Outstanding Natural Feature
ONL	Outstanding Natural Landscape
ONFL	Outstanding Natural Feature and Landscape
RMA	Resource Management Act 1991
WARMP	Wairau/Awatere Resource Management Plan

**Submitter abbreviations**

AQNZ	Aquaculture New Zealand
EDS	Environmental Defence Society Incorporated
DOC	Department of Conservation
KCSRA	Kenepuru and Central Sounds Residents' Association
FNHTB	Friends of Nelson Haven and Tasman Bay Incorporated
Fish and Game	Nelson Marlborough Fish and Game
Forest & Bird	Royal Forest and Bird Protection Society NZ
MFA	Marine Farming Association Incorporated
MFIA	Marlborough Forest Industry Association Incorporated
PMNZ	Port Marlborough New Zealand Limited
QCSRA	Queen Charlotte Sound Residents Association
NZTA	New Zealand Transport Agency
Te Ātiawa	Te Ātiawa o Te Waka-a-Māui

## Structure of Decisions

1. It is important that the topic decision is read as a whole together with the tracked change version of the Plan. The decision on each topic contains the reasons for the Panel's decisions. These comprise either adoption of the reasoning and recommendations of the original Section 42A Report or the replies to evidence, or a specific reasoning by the Panel<sup>1</sup>.
2. The tracked change version of the relevant PMEP provisions forms an integral part of the decision. The source of the change in terms of the topic that the subject matter was dealt with is clearly identified in the track changes version of the plan. This records all amendments (additions and deletions) to the notified PMEP provisions made by the Panel.
3. Where the PMEP provisions **remain as notified**, it is because:
  - (a) The Panel has decided to retain the provision as notified for reasons set out in this decision; or
  - (b) The Panel adopted the reasoning and recommendation of the Section 42A Report Writer to retain the provision as notified as recommended in the Reply to Evidence; or
  - (c) The Panel adopted the reasoning and recommendation of the Section 42A Report to retain the provision as notified in the original Section 42A report.
4. Where there is a **change to a provision** within the plan it is because:
  - (a) The Panel has amended a provision for reasons set out in this decision in response to a submission point which the Section 42A report writer(s) does not recommend in their reports; or
  - (b) The Panel adopted the reasoning and recommendation of the Section 42A Report Writer to change the provision to that recommended in the Reply to Evidence; or
  - (c) The Panel adopted the reasoning and recommendation of the Section 42A Report Writer to change the provision to that recommended in the original Section 42A report; or

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<sup>1</sup> (The only exception to that approach relates to the Noise section of the Nuisance topic where the reasoning and recommendations in the responses to Minutes 54 and 59 may have been adopted, rather than the reasoning and recommendations in the Section 42A Report or the Reply to Evidence report. The reasons for that difference in that topic are dealt with in detail at the commencement of the Noise section of the Nuisance topic decision. In respect of that topic the approach to understanding of the individual submission point decisions addressed in paragraphs 13.3 to 13.5 below should be adjusted accordingly to apply references to the Section 42A Report and/or Reply to Evidence in those paragraphs as being references to the responses to Minutes 54 & 59 for that Nuisance topic.)

- (d) A consequential change has been necessary following on from a decision in either a), b) or c).
5. Where there is a **different recommendation** between the Section 42A Report and the Reply to Evidence (i.e., the recommendation by the Section 42A report writer(s) has changed as a result of hearing the evidence of submitters), unless the Panel decision specifically adopts the original report's reasoning and recommendations, the reasoning and recommendations in the (later) reply to evidence has been adopted and it must be taken to prevail.
  6. There are limited circumstances where the Panel has taken the opportunity to give effect to national policy statements or implement national environmental standards. Where this occurs the relevant decision clearly sets out the nature of the change and the reason for the change.
  7. Finally, there are limited circumstances where the Panel has decided that **alternative relief** is more appropriate than that requested by the submitters, but still within the scope of the relief sought. This is recorded in the Panel's decision.

## Landscape

At the hearing, the submissions relating to Landscape and Natural Character were addressed as one topic, Topic 5, with two report writers providing a S42A Report on each (one on mapping and one on provisions). As part of the Panel’s deliberations, they determined that the topics would be more effectively considered separately. This manner of consideration has resulted in a decision document being produced for each, one on Landscape and the other Natural Character.

For ease of reference, the S42A Reports have been distinguished in this Landscape decision by using the following:

Document Name	Referred to
Report on submissions and further submissions Topic 5: Landscapes – Issues, Objectives, Policies, and Methods, Report Prepared by Maurice Dale	Section 42A Report (Dale)
Report on submissions and further submissions Topic 5: Landscape – Technical Mapping, Values and Overlays, Report prepared by James Bentley	Section 42A Report (Bentley)
Section 42A report – Reply to Evidence – Topic 5: Natural Character & Landscape – Technical Mapping, Values and Overlays, Prepared by James Bentley	Reply to Evidence (Bentley)
Section 42A report – Reply to Evidence – Topic 5: Natural Character and Landscape – Issues, Objectives, Policies, and Methods, Prepared by Maurice Dale	Reply to Evidence (Dale)
Report on submissions and further submissions - miscellaneous topics, Prepared by a compilation of report writers	Section 42A Report (Misc)
Landscape Mapping Recommendations	Mapping Recommendations

### A background definition of ‘landscape’

*An area, as perceived by people, the character of which is the cumulative result of the action and interaction of natural and/or cultural factors.<sup>2</sup>*

*The perception of the landscape is not generally formed by a single glance but a progression of views.<sup>3</sup>*

### Introduction to Chapter 7 Landscape

8. The Introduction to Chapter 7 (Volume 1) introduces the concept of landscapes and sets out the statutory context directing their management in the PMEP. The second paragraph identifies that for the purposes of this chapter, landscapes that are identified for s 6(b) or s

<sup>2</sup> FNHTB (716.70), Michael Steven Evidence, citing that of the International Federation of Landscape Architects (IFLA) Asia-Pacific Region Landscape Character, paragraph 186. Marlborough Aquaculture Ltd, Thomas Carter Evidence (959.1), citing European Landscape Committee, page 11.

<sup>3</sup> MDC, S42A Report (Bentley), page 11 (second paragraph), accepted by Michael Steven, Evidence, paragraph 129.

7(c) RMA reasons are referred to as 'significant' landscapes. The Introduction also describes the five broad landscape areas in Marlborough: the Richmond Range, the Wairau and Awatere River valleys; the mountainous interior; the Marlborough Sounds; and the East Coast.

### **Submissions**

9. The submissions in relation to the Introduction seek: an acknowledgement of the lack of knowledge regarding the Marlborough Sounds landscapes,<sup>4</sup> greater clarity round the relationship between the term 'significant landscapes', outstanding natural landscapes (ONL), outstanding natural features (ONF) and amenity landscapes, and how these interact in the planning framework;<sup>5</sup> amendment to the introduction to the explanation of the relationship of how the natural character values/criteria contribute to the identification of outstanding natural character and outstanding natural features and how the provisions of the plan address any overlap in terms of identifying specific areas or features;<sup>6</sup> references to Tasman Bay and Cook Strait to include as two additional landscape areas in the Marlborough Sounds;<sup>7</sup> to amend the introduction to accept a general reference to the cultural values that landscapes hold for tangata whenua iwi as appropriate, given that these values are an associative value of landscape assessment and classification.<sup>8</sup>

### **Section 42A Report**

10. The Section 42A Report (Dale) concludes the term 'significant landscapes' is identified in s 6(b), s 7(c) RMA but the phrase could be made clearer including references to such landscapes as being other outstanding natural features or landscapes (ONFLs) or high amenity landscapes identified in the PMP. He recommends making the appropriate changes in the Introduction, ensuring that the status of those landscapes/features occurs in response to the submission of EDS.<sup>9</sup>
11. In terms of the relationship between natural character and landscape overlays identified in the PMP, the report writer identifies this is based on the degree of naturalness that is present in an area, based on natural elements, patterns and processes that exist. The landscape overlays are based on a broader range of attributes and include not only biophysical matters but sensory and associative attributes. It identifies that the mapping of high amenity

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<sup>4</sup> QCSRA (504.22)

<sup>5</sup> EDS (698.46)

<sup>6</sup> Forest and Bird (715.142).

<sup>7</sup> FNHTB (716.70).

<sup>8</sup> Ngāi Tahu, Tanya Stevens Evidence, paragraph 37.

<sup>9</sup> S42A Report (Dale), pages 15-17

landscapes are those landscapes that fall below the threshold of being classified as an outstanding natural feature (ONF) or outstanding natural landscape (ONL) that is outstanding.

12. The Section 42A Report (Dale) states high amenity areas hold high amenity environmental characteristics and values. These landscapes are referred to generally as 'significant' landscapes. These aspects could also be made clearer for plan users with changes made accordingly in response to the submission of Forest and Bird.<sup>10</sup>
13. The request of QCSRA to include a reference to a lack of knowledge about the attributes that contribute to landscape values in Marlborough is recommended to be rejected on the grounds that it provides an unnecessary specificity within an introduction.
14. Further, reference to the relevant extents of Cook Strait and Tasman Bay were captured within the landscape character area in the Marlborough Landscape Study 2015. It is therefore not necessary to include them as 'broad landscape areas' in the Introduction, as sought by FNHTB.
15. The Section 42A Report (Dale) initially did not accept specific references to the importance of specific landscapes to Ngāi Tahu in Marlborough. They were not recommended unless similar references are also adopted for Marlborough's tangata whenua iwi.

#### **Consideration**

16. Features are distinct from landscapes as discrete physical elements defined largely by their geomorphological form.<sup>11</sup> The current text in the first line to the Introduction does not recognise that landscapes must be 'natural' landscapes – but 'natural features' are. It is necessary to amend the term 'outstanding natural features and/or landscapes' to 'outstanding natural features and/or outstanding natural landscapes' throughout Chapter 7, Volume 1. The exact wording of the phrase 'outstanding natural landscapes' does not appear in s 6(b) RMA but is implied by the use of the conjunctive 'and' in the phrase 'outstanding natural features and landscapes'. The NZCPS in Policy 15(a) does use the full phrase outstanding natural features and outstanding natural landscapes. For that reason this Plan uses that full phrase.
17. A landscape approach has three stages in assessment:
  - identification of the landscape/s or feature

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<sup>10</sup> EDS (698.46), Forest and Bird (718.142).

<sup>11</sup> FNHTB, Michael Steven Evidence, paragraph 121 at 121.1.



- determination of whether a landscape or feature can be regarded as a natural landscape or feature, and if so, how natural (referring to a 7-range scale identified by the landscape architects;
- assessment of whether any landscape or feature as a natural landscape or feature is also outstanding.

18. As stated by Dr Steven:

*Landscapes as they appear to be defined in the BML landscape study do not appear to be defined according to (this) real world perceptual approach. This has significant implications for the manner in which the spatial extent of ONLs are defined.<sup>12</sup>*

19. The Panel queried therefore whether the recommendation in the Section 42A Report (Dale) to attribute the term ‘significant landscapes’ used in the last line of the second paragraph of the Introduction and elsewhere in Chapter 7, to combine s 6(b) (outstanding) and s 7(c) (amenity values), is legally correct.

20. The Panel concluded the recommendation was incorrect. The word ‘significant’ appears in only two contexts in s 6 RMA: under s 6(c) relating to the protection of areas of ‘significant’ indigenous habitats of indigenous protection, and in s 6(h) management of ‘significant’ risks from natural hazards. NZCPS Policy 15(b) references ‘significant adverse effects’.

21. This use of the term ‘significant landscape’ in this context causes confusion; use of the word in association with landscape is found in 14 contexts throughout Chapter 7 and should be deleted. Whenever it appears it should be changed to ‘outstanding natural features’, ‘outstanding natural landscapes’ and ‘high amenity value areas’ as identified in Objective 7.1.

22. Further, use of the term ‘visual amenity landscape’, also in the second paragraph to the Introduction, is inconsistent with s 7(c) RMA, NZCPS Policy 15(2) or its definition in s 2 RMA. The definition of ‘amenity’ in s 2 RMA Interpretation does not mention ‘visual’ and refers to a different variety of amenity, relating to:

**... those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes**

23. Section 7(c) RMA does not refer to ‘visual amenity’. It is non specific, in that it refers solely to ‘**maintenance and enhancement of amenity values**’. NZCPS Policy 15(2)(c) refers to a list of

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<sup>12</sup> FNHTB, Dr Michael Steven, Evidence, paragraphs 131-132.

values, none of them visual, for example, ‘aesthetic’ values (iv), ‘transient’ (vi), ‘values shared and recognised’ (vii), ‘cultural’ and ‘spiritual’ (viii), ‘wild or scenic’ values (x).

24. MFA and AQNZ provided a definition of ‘values’ which is helpful here. A ‘value’ is ‘the significance, desirability (or [the] utility of something)’.<sup>13</sup>
25. Whenever the phrase ‘visual amenity landscape’ is used, it should be replaced with the term ‘landscape with high amenity value’; and ‘visual amenity’ replaced with ‘amenity value’. And in the second to last line of the first paragraph to the Introduction, replace the word ‘visually’ should be replaced with the word ‘perceptually’. The word ‘perceptually’ places the community in the same context as landscape, where it belongs, as it derives from the definition of landscape *as perceived by people*.
26. As a consequential effect from these findings, the last sentence of paragraph 2 should be deleted.
27. A further amendment to the Introduction is also required in the first paragraph to clarify how identification of features as distinct from landscapes will occur, and this should also be provided in paragraph 1 of the text making that distinction.
28. Ngāi Tahu sought that tangata whenua iwi values be specifically recognised in the introduction and provided a specific amendment which should be inserted as the second paragraph.<sup>14</sup> Such values in the context of Marlborough have their own distinction.

### **Decision**

29. For the reasons set out above, the following are amended in both the introduction to Chapter 7 and throughout the Plan:
  - the phrase ‘outstanding natural features and landscapes’ is replaced with the term ‘outstanding natural features and outstanding natural landscapes’;
  - ‘visual amenity landscape’ is replaced with the term ‘landscape with high amenity value’;
  - ‘visual amenity’ is replaced with the term ‘amenity value’.
30. For the reasons identified, the Introduction to Chapter 7 is amended as follows:

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<sup>13</sup> MFA, Counsel Submissions, paragraphs 97-98 citing B Garner *Black’s Law Dictionary* (9<sup>th</sup> Ed), Thomson Reuters, 2009.

<sup>14</sup> S42A Report (Dale), Reply to Evidence, page 14.

*Our landscapes provide us with a Marlborough identity and are an integral part of the Marlborough environment. Landscapes are distinct spatial areas influenced by location-specific features, patterns and processes within the environment. These features, patterns and processes can be natural or human-induced (e.g. land use change), and incorporate the biophysical aspects of natural character which are separately addressed within Chapter 6 of this Plan. ~~Natural features within the landscape can also help to define a landscape.~~ The resulting landscape characteristics are expressed ~~visually-perceptually, but~~ and can be valued for their ecological significance or for intrinsic reasons (e.g. by providing a sense of place).*

*The Resource Management Act 1991 (RMA) identifies the protection of outstanding natural features and outstanding natural landscapes from inappropriate subdivision, use and development as a matter of national importance (Section 6(b)). Those landscapes that do not meet the threshold of being considered 'outstanding' may still make a contribution to the ~~visual appreciation or~~ amenity values of Marlborough. The RMA seeks to maintain and enhance these landscapes with ~~visual~~ amenity value (Section 7(c)). ~~For the purposes of this chapter, landscapes that are identified for Section 6(b) or 7(c) reasons are referred to as "significant landscapes."~~*

*Landscapes will often have specific values for Marlborough's tangata whenua iwi. Many landscapes are focused on water bodies, the coast, or mountain ranges which incorporate a range of historic and contemporary values for Marlborough's tangata whenua iwi. These values include awa, maunga, trails, māhinga kai, and sites of traditional settlement.*

## **Issue 7A**

**Resource use and changes in resource use can result in the modification or loss of values that contribute to outstanding natural features and landscapes and to landscapes with high amenity value.**

31. Submissions on Issue 7A include: amend the explanation by replacing references to 'significant landscapes' with '*outstanding landscapes and landscapes with high amenity*';<sup>15</sup> amend the explanation to the issue to include reference to NZCPS 2010.<sup>16</sup>

### **Section 42A Report (Dale)**

32. The report writer, referring back to the notified Introduction, repeats the preference for the word 'significant' to make the importance of ONLF and High Amenity Landscapes and Features (HALF) clear for plan users. No change is recommended.

<sup>15</sup> Forest and Bird (715.143).

<sup>16</sup> FNHTB (716.71).

33. FNHTB's submission is to include the reference to NZCPS 2010 in the text because this particular document provides further direction and guidance on the protection of landscapes in the coastal environment.<sup>17</sup>

**Consideration**

34. The Panel does not agree that the landscapes identified in s 6(b) and s 7(c) RMA should be jointly referred to as 'significant landscapes', they should refer instead to 'outstanding natural features, outstanding natural landscapes and high amenity areas' as already amended in the Introduction and set out above. Forest and Bird's submission is preferred.
35. In view of the specific reference requirements of landscape issues identified in NZCPS Policy 15 Natural features and natural landscapes, it is important to reference the document in the decision, and this submission too is accepted.

**Decision**

36. Issue 7A is amended to read:

*Resource use and changes in resource use can result in the modification or loss of values that contribute to outstanding natural features, outstanding natural ~~and~~ landscapes and ~~to~~ landscapes with high amenity value.*

37. The explanatory statement to Issue 7A is amended as follows:

*Although our landscape is dynamic and will continue to change in response to future resource use, there are some landscapes that the community values above others. The importance of these ~~significant~~ landscapes and the contribution they make to community wellbeing is recognised by the RMA and NZCPS. The value placed on our ~~significant~~ landscapes means that they are often more sensitive to change.*

38. The use of the word 'significant' is also deleted three times in the last paragraph of Issue 7A which is amended to state as follows:

*Issues can arise where the effects of resource use, especially the subdivision, use and development of land result in the loss or degradation of the values fundamental or integral to a landscape being considered important ~~significant~~. As the community gains economic wellbeing from the productive use of natural and physical resources, it can be challenging to balance this against the need to retain the values that contribute to our ~~significant~~ landscapes. Judgements are therefore required to determine appropriate development within our ~~significant~~ landscapes.*

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<sup>17</sup> FNHTB (716.71).

39. As a consequential change, the term ‘significant landscapes’ is replaced by the term ‘outstanding natural features and/or outstanding natural landscapes, and landscapes with high amenity value’.

### Policy 7.1.1

**When assessing the values of Marlborough’s landscapes, the following criteria will be used:**

- (a) biophysical values, including geological and ecological elements;**
- (b) sensory values, including aesthetics, natural beauty and visual perception; and**
- (c) associative values, including cultural and historic values, and landscapes that are widely known and valued by the immediate and wider community for their contribution to a sense of place.**

40. This policy is based on a Boffa Miskell landscape model entitled ‘The Relationship Between Landscape and Natural Character’, prepared since the Section 42A Reports (Bentley) were completed.<sup>18</sup>

#### Submissions

41. A number of submissions support the retention of this policy. Others seek: deletion of the policy or amend it to explain how the Council will apply values;<sup>19</sup> amendment to the policy by adding a reference to ‘*a landscape must meet all or most criteria to be classified as an ONL or ONF and the criteria must be used to determine the spatial extent of the landscape*’;<sup>20</sup> reconsideration of associative values to give a broader definition and more weight to cultural values in the overall determination of site/landscape;<sup>21</sup> include the words ‘*identify and assess the characteristics and values of Marlborough’s landscapes using (inter alia) further criteria such as topographical, hydrological and expressions of natural and formative processes*’;<sup>22</sup> include the words ‘*when assessing the characteristics of Marlborough’s landscapes and features the following values will be considered*’;<sup>23</sup> amend the policy to include ‘*landscapes and features*’;<sup>24</sup> amend clause (c) to read ‘*associative values to include cultural and heritage values*’;<sup>25</sup> include those factors that are widely known and valued by the immediate and wider community;<sup>26</sup> amend clause (c) to include *economic wellbeing*;<sup>27</sup> amend the policy to include

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<sup>18</sup> S42A Report (Bentley), page 6.

<sup>19</sup> D C Hemphill (648.26).

<sup>20</sup> Federated Farmers (425.97).

<sup>21</sup> Te Ātiawa (1186.52).

<sup>22</sup> EDS (698.47).

<sup>23</sup> Forest and Bird (715.145).

<sup>24</sup> Trustpower (1201.66).

<sup>25</sup> Heritage NZ (768.14).

<sup>26</sup> Ngāti Kuia (501.26).

<sup>27</sup> Sanford (1040.25).

the presence of water, seas, lakes, rivers and streams;<sup>28</sup> amend the policy to include reference to tangata whenua iwi values.<sup>29</sup>

### **Section 42A Report (Dale)**

42. The Section 42A Report (Dale) identifies Policy 7.1.1 is intended to set out the values to be used in assessing Marlborough’s landscapes to assist identification of ONF, ONL and high amenity landscapes to implement Objective 7.1. These values are to align with those used in the Marlborough Landscape Study 2015 (‘the Landscape Study’) to echo values consistent with NZCPS Policy 15(c), and landscape best practice and case law. Listed attributes capture topographical, hydrological and natural and formative processes together with tangata whenua iwi values.<sup>30</sup>
43. The report writer acknowledges that the listed attributes in the PMEP do not fully align with the broad list in the Landscape Study and some changes are recommended in response to submissions by EDS, Ngāi Tahu and Heritage NZ as well as FNHTB.
44. In response to Sanford’s request to include reference to ‘economic wellbeing’, the report writer observes this is not an associative cultural or social attribute of landscapes and is not appropriate to include.
45. The report writer concludes it is also difficult to assess how landscape values are to be applied due to their complexity and the continuing evolution of landscape practice. The methodology applied in this case is set out in the Landscape Study identified.<sup>31</sup>

### **Consideration**

46. There is merit in what the Section 42A Report (Dale) concludes above on the subject of landscape. The evidence before the Panel illustrates just how difficult the subject is. Some issues may be resolved; others will need the input of the wider architecture community outside this forum. The amendments recommended for Policy 7.1.1 are set out in the Section 42A Report (Dale) and the Reply to Evidence (Dale)<sup>32</sup> some of which are accepted and some of which are not as we now discuss.

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<sup>28</sup> FNHTB (716.73).

<sup>29</sup> Ngāi Tahu (1189.70).

<sup>30</sup> S42A Report (Dale), page 22, citing listed attributes in the Landscape Study (page 15).

<sup>31</sup> S42A Report (Dale), page 22.

<sup>32</sup> S42A Report (Dale) Reply to Evidence, page 15 and others contained within the Original Report.

### Sensory values

47. The Section 42A Report (Bentley) identifies that the application of ‘sensory values’ used in the Landscape Study is first, consistent with NZILA best practice, and secondly, draws from case law which had previously considered how sensory and aesthetic values may be evaluated.<sup>33</sup>
48. The NZILA Best Practice Note 10.1 (not a ‘guide’) does not refer to a definition of ‘sensory values’ amongst the other values it provides in its language of assessment.<sup>34</sup> Instead it refers to a notion of ‘sensory qualities’ without qualification under its Description heading of the three broad categories of landscape attributes for the assessment stages (biophysical, sensory, associative).<sup>35</sup> It repeats ‘sensory qualities’ in its Language of Assessment – using the word ‘attributes’ – which is a word used in Chapter 6 to replace the word ‘values’.
49. The NZILA Best Practice Note then goes on to describe ‘sensory qualities’ for assessment stages as ‘landscape phenomena as directly perceived and experienced by humans such as the view of a scenic landscape or the distinctive smell and sound of the seashore’.
50. The Panel is aware that the NZCPS (2010) took effect from 3 December 2010. The date of the version of the Best Practice Note is 2 November 2010, where the term ‘sensory qualities’ was first identified and subsequently carried through into the Marlborough Landscape Study 2015.
51. The phrase ‘sensory values’ is not part of NZCPS Policy 15 and appears to have been conflated from the term in NZCPS Policy 13 Preservation of natural character (Policy 13(2)) where the NZCPS specifically states that natural character is not the same as natural features, landscapes or amenity values. A definition of ‘natural character’ is stated in the NZCPS as follows:

*‘Natural character’ is the term used to describe the natural elements of all coastal environments. The degree or level of natural character within an environment depends on:*

- 1. the extent to which the natural elements, patterns and processes occur;*
- 2. the nature and extent of modification to the ecosystems and landscape/seascape.’*

52. In a footnote to this definition of natural character, elements, patterns and processes are interpreted as referring to: biophysical, ecological, geological and geomorphological aspects;

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<sup>33</sup> S42A Report (Bentley) page 14, citing ‘Including Decision C180/99 Wakatipu Environment Society v Queenstown Lakes District Council’

<sup>34</sup> New Zealand Institute of Landscape Architects, Best Practice Note: Landscape Assessment and Sustainable Management 10.1 (November 2010), page 6.

<sup>35</sup> S42A Report (Dale), page 20.

natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, reefs, freshwater springs and surf breaks; and the natural movement of water and sediment.<sup>36</sup>

53. This definition is referred to by Dr Steven who in turn referenced the Boffa Miskell natural character assessment and definition of natural character based upon a natural character study cited in the Section 42A Report (Bentley).<sup>37</sup>
54. The phrase 'sounds and smell of the sea' are not identified in Policy 7.1.1(b).
55. The word 'may' in Policy 13(2) identifies that it is optional to include such matters as listed in NZCPS Policy 13(2)(a)-(h) Preservation of natural character, includes (h) experiential attributes such as the sounds and the smell of the sea described by Dr Steven as 'intangible', 'ephemeral', and collateral to the main attributes elsewhere in the policy. The words 'sounds and smell of the sea' thus have no tangible, physical presence but are still able to be experienced. NZCPS Policy 13 is essentially descriptive.
56. No party to the notified plan (such as EDS) sought 'sensory values'/'sensory qualities' in its evidence of landscape values, and it should be deleted from Policy 7.1.1(b) and from Appendix 1 PMEP.<sup>38</sup> In the PMEP Appendix 1, the word 'perceptual' is one of three categories for assessing landscape values, and that should be retained as notified, for landscape is essentially analysed as an evaluation process.
57. Multiple values contribute to landscape. Primarily, landscape is the expression of natural processes and human activity in and on the land. However, it is also a function of how people perceive the results of this interaction. Those values considered relevant in a Marlborough context are identified in (a) to (c) of the policy. Landscapes may have one or more of these values. The criteria are derived from national and international landscape assessment criteria as well as the NZCPS. More detail on what constitutes the values in (a) to (c) and how the values are assessed is included within the report "Marlborough Landscape Study August 2015" undertaken by expert landscape consultants. The Council will use these values as the basis of any assessment of landscape.
58. The manner in which the submission was lodged by FNHTB led to some difficulties to the Panel in identifying the relief sought on this issue. The submission essentially contained a copy of the evidence we later heard directly from Dr Steven. In that evidence he identified the sensory aspects of smell and sound should have been included only in the Natural Character

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<sup>36</sup> S42A Report (Bentley), page 7, footnote 5.

<sup>37</sup> FNHTB, Michael Steven Evidence, paragraphs 80-84.

<sup>38</sup> MFA, Counsel Submissions, paragraph 18.



chapter of the Plan and not the landscape chapter. That could only be achieved by rewording the word sensory to capture the perception aspects that he emphasised. We have endeavoured to ensure that a purposive approach is taken to that request for relief in respect of Policy 7.1.1(b) in reaching the decision described above.

59. The Panel considers other amendments should also be made to Policy 7.1.1:

- The matters (a)-(c) are not ‘criteria’ but ‘factors’ – these are circumstances leading to results and the word ‘factors’ also has its precedent in its use in the definition of ‘landscape’ above.<sup>39</sup>
- Delete ‘visual perception’ from Policy 7.1.1(b) and insert ‘transient values’ as sought by EDS.<sup>40</sup>
- Reference to ‘the values of Marlborough’s tangata whenua iwi’ before the word ‘culture’ in (c) as these values are relevant to landscape evaluation.<sup>41</sup>
- Replace the text in (c) ‘historic values’ with ‘heritage values’. This term is broader than ‘historic’ and encompasses all the issues that go to make up heritage values.<sup>42</sup>

60. In relation to Appendix 1 the consequence of the above discussion is that the term ‘perceptual values’ is retained as notified. In the report writer’s memorandum in response to the Panel’s minute 15, Appendix 1: Regrouped Landscape Values a number of suggestions were made by the report writer which the Panel needs to record it does not accept. Those recommendations are accepted other than the deletion of the word ‘sensory’ in all categories which the Panel has decided is necessary, together with the following deletions from those recommendations:

i. *Deletion of the inclusion of the sentence under the heading Perceptual (page 7):*

*The Marlborough Sounds landscape stimulates all senses. Spatial, auditory, visual and other sensory experiences are all stimulated by the close relationship between the convoluted network of waterways and interlocking peninsulas and islands, which is unique in New Zealand. The seasons and differing weather patterns contribute to the dynamic mix of sensory elements.*

ii. *Deletion of the word ‘sensory’ under the heading ‘Perceptual’ (page 10) and also in the text replace ‘High ~~sensory~~ values’ with ‘High perceptual [amenity] values’.*

<sup>39</sup> EDS (698.47) cited in S42A Report (Dale), page 22.

<sup>40</sup> MFA and AQNZ, Counsel Submissions, paragraph 18.

<sup>41</sup> S42A Report (Dale), pages 20-22.

<sup>42</sup> Section 42A Report, pages 20-22 (Heritage NZ).

- iii. *Deletion of the word 'sensory' under the heading 'Perceptual' on pages 12 and 15 (also in the text and replace with 'Perceptual (pages 17 and 20); also in the text (twice) replace 'sensory' with 'Perceptual' (pages 22, 24, 27, 30,32, 33, 38, 41, 43,45,47,49,51); and also the word 'experiential' in the text (pages 53, 55, 57); and also the word 'experiential' and in the evaluation of very high 'sensory' values (page 57).*

61. The decision giving effect to those conclusions follows on a later discussion about nested landscapes

**Associative values**

62. Ngāi Tahu and Te Atiawa both sought that the associated values in 7.1.1(c) be amended and strengthened to identify relevant values of importance to Marlborough's tangata whenua iwi. Those requests were largely accepted by the Panel and the amendments to that part of the policy are set out below.

**Decision**

63. Policy 7.1.1 is amended as follows:

*Policy 7.1.1 – ~~When assessing~~ Identify and assess the values of Marlborough's landscapes and features, using the following criteria factors will be used:*

- (a) *biophysical values, including geological and ecological elements;*
- (b) *~~sensory~~ perceptual values, including aesthetics, natural beauty and ~~visual perception,~~ transient matters; and*
- (c) *associative values, including the values of Marlborough's tangata whenua iwi, and other cultural and historic heritage values, and shared and recognised values. ~~and landscapes that are widely known and valued by the immediate and wider community for their contribution to a sense of place.~~*

64. As a consequence of the above amendments, to ensure consistency, all instances of 'sensory' in Chapter 7 and Appendix 1 are replaced with 'perceptual'.

**Policy 7.1.2**

Define the boundaries of significant landscapes using the following methods:

- (a) land typing;
- (b) contour line;
- (c) contained landscape features;
- (d) visual catchment; and/or
- (e) land use.

65. Several submissions support/retain the policy as notified. Others seek to: delete the policy;<sup>43</sup> amend the policy to delete reference to significant landscapes and only use the visual catchment approach;<sup>44</sup> amend the policy to read 'Define the boundaries of *high amenity value landscapes* using the following methods: ... (e) land use *and zoning*;<sup>45</sup> amend the policy to read 'Define the boundaries of *different landscapes with different characteristics* using the following methods: ...';<sup>46</sup> amend the policy to read 'Define the boundaries of *landscape units* using the following methods: ...';<sup>47</sup> amend the policy to reference inclusion of cultural values and landscapes which have not been assessed or included in the assessment criteria of Volume 3 Appendix 1;<sup>48</sup> amend the policy to include reference to 'consultation with tangata whenua iwi'.<sup>49</sup>

**Section 42A Report**

66. The report writer describes that Policy 7.1.2 is intended to set out the methods to be used in defining the boundaries of ONFLs and high amenity landscapes to implement Objective 7.1. The methods listed are intended to align with those used in the mapping of landscapes in the Marlborough Landscape Study 2015. The report writer says that deletion of the policy or changes to the listed methods would therefore result in an inconsistency with the methodology used in the study and the basis on which the ONFLs and high amenity landscapes have been identified.
67. The report writer continues to observe that using property ownership or zoning as a method would also be inappropriate as neither typically has a landscape basis. The identification and assessment of the values, including cultural values, is instead addressed in Policy 7.1.1.

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<sup>43</sup> Federated Farmers (425.99), Sanford (1140.19).

<sup>44</sup> MFA (426.67), AQNZ (401.66).

<sup>45</sup> PMNZ (433.23).

<sup>46</sup> Forest and Bird (715.146).

<sup>47</sup> FNHTB (716.74).

<sup>48</sup> Ngāti Kuia (501.27).

<sup>49</sup> Te Rūnanga O Kaikōura and Te Rūnanga O Ngāi Tahu (1189.71).

### Consideration

68. Nevertheless, as the report writer has already acknowledged, use of the generic term 'significant' landscapes could create confusion for plan users on the basis that it is unclear as to the scope of landscapes captured by the policy and is inconsistent with the terminology of other policies. This issue was addressed under several headings earlier.
69. Changes submitted by Forest and Bird and FNHTB are recommended to address the issue with the deletion of the word 'significant' in the first line of the policy. Further, they seek amendments to encompass '*outstanding natural features and outstanding landscapes*' and '*landscapes with high amenity value*' and inclusion of a new (f) '*consultation with Marlborough's tangata whenua iwi*'; as consultation with iwi should form part of defining boundaries.
70. In assessing Appendix 1, Minute 15 of the MEP Hearing Panel addressed to the report writer (Bentley) requests that the existing content of the appendix should be restructured according to 'nested landscapes' described in the Reply to Evidence (Bentley)<sup>50</sup> (see nested landscapes map attached as Appendix 1). The same amendment was recommended to be made both to Policy 7.1.2(d) and the explanation.

### Decision

71. As recommended, the Panel concluded for the reasons given that Policy 7.1.2 is amended as follows:

*Policy 7.1.2 – Define the boundaries of ~~significant~~ outstanding natural features and outstanding natural landscapes, and landscapes of high amenity value<sup>51</sup> using the following methods:*

- (a) land typing;*
- (b) contour line;*
- (c) contained landscape features;*
- (d) ~~visual catchment,~~ nested landscapes and/or*
- (e) land use; and/or*
- (f) consultation with Marlborough's tangata whenua iwi.*

<sup>50</sup> S42A Report (Bentley), Reply to Evidence, page 15.

<sup>51</sup> Forest and Bird (715.146), FNHTB (716.74).

**Policy 7.1.3**

**Assessment of the values in Policy 7.1.1 will determine:**

- (a) whether a landscape is identified as an outstanding natural feature and landscape in terms of Section 6(b) of the Resource Management Act 1991;**
- (b) whether the landscape has high amenity value in terms of Section 7(c) of the Resource Management Act 1991; or**
- (c) where landscape values are not sensitive to change.**

72. Policy 7.1.3 sets out the basis for the identification of ONFLs and high amenity landscapes in the PMEP in response to the values under Policy 7.1.1 to implement Objective 7.1.
73. A number of submissions seek the retention of the policy as notified.<sup>52</sup> Others seek: deletion of 'high amenity landscapes' and deletion of clause (c);<sup>53</sup> incorporation of a reference to mapping and listing of the values of the ONFL which are separately addressed in Policy 7.1.1, these can be listed in Appendix 1 Volume 3<sup>54</sup> and specifically identified in an overlay; delete clause (c) with regard to landscape values not sensitive to change;<sup>55</sup> amend the policy to capture landscapes where only significant adverse effects on their values are required to be managed;<sup>56</sup> add a clause requiring the identification of landscapes consistent with Policy 15 NZCPS;<sup>57</sup> a requirement to identify landscapes of high cultural value in terms of s 6(e) and s 7(a) RMA.<sup>58</sup>

**Section 42A Report (Dale)**

74. The Section 42A Report (Dale) supports the replacement of 'assessment' in the first line of the policy with the words 'identify and assess'. It is acknowledged that for those who seek deletion of (c) as worded, it could be implied that all other landscapes in the PMEP are not sensitive to any form of change when in fact they still may well be, depending on the scale, character and intensity of any subdivision, use and development. Thus, recognising that other landscapes may be sensitive to change aligns with NZCPS Policy 15(b) which requires significant effects on other landscapes to be avoided, and adverse effects on other natural features and natural landscapes in the coastal environment to be avoided, remedied or mitigated.<sup>59</sup>

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<sup>52</sup> John Kershaw (95.4), Jane Buckman (96.9, 284.3), Ian Mitchell (364.3), Forest and Bird (466.9), Judy and John Hellstrom (688.61), Omaka Valley Group (1005.4).

<sup>53</sup> Trustpower (1201.67), AQNZ (401.69), MFA (426.91), Sanford (1146.26).

<sup>54</sup> Federated Farmers (425.100).

<sup>55</sup> EDS (698.48).

<sup>56</sup> Friends NHTB (716.75).

<sup>57</sup> Forest and Bird (715.47).

<sup>58</sup> Te Ātiawa (1186.53), S42A Report (Dale), page 26.

<sup>59</sup> S42A Report (Dale), page 26.

75. It is also recommended to amend clause (c) to refer to ‘where landscape values are *less* sensitive to change’ in response to the submissions of AQNZ, MFA, Sanford, Trustpower, EDS and Forest and Bird.
76. With regard to cultural landscapes, this concept has already been introduced by Ngāi Tahu into the Introduction, while the change requested by Forest and Bird requesting a new clause setting out the identification of landscapes consistent with Policy 15 NZCPS would introduce a level of specificity in the policy. On these two matters no change is recommended.
77. Federated Farmers’ submission to remove the reference to high amenity values in (b) is also recommended to be rejected for its identification in the PMEP is in direct response to s 7(c) RMA. The identification of the Marlborough Sounds and the Wither Hills in the PMEP is on the basis that they require specific controls to ensure their high amenity values are maintained. No change is recommended in response to those submissions requesting deletion of references to landscapes of high amenity.
78. In his Reply to Evidence (Dale), the report writer accepts his earlier suggested wording does not achieve appropriate alignment between the Landscape Study assessments and how landscapes identified in that study have been included in the PMEP. Clause (c) is inconsistent with the Landscape Study as the sensitivity to change was only considered in the context of s 7 RMA landscapes. He accepts the wording should be changed as Trustpower’s wording suggests.<sup>60</sup>

### Decision

79. Policy 7.1.3 is amended for the reasons recommended:

*Policy 7.1.3 – ~~Identify and assess~~ ~~Assessment of the values in Policy 7.1.1~~ ~~will to determine:~~*

- (a) whether a landscape is ~~identified as~~ an outstanding natural feature and landscape in terms of Section 6(b) of the Resource Management Act 1991;*
- (b) whether the landscape has a high amenity value in terms of Section 7(c) of the Resource Management Act 1991 and whether those values are sensitive to change;~~or~~*
- ~~(c) where landscape values are not less sensitive to change.~~*

*Once an assessment of a landscape has been undertaken based on the values identified in Policy 7.1.1, a determination will be made as to whether the landscape values are significant enough for the landscape to be considered outstanding in the context of Section 6(b) of the*

<sup>60</sup> S42A Report (Dale), Reply to Evidence, page 17.

*RMA. If a landscape is considered to exhibit exceptional or very high biophysical, ~~sensory~~ perceptual and/or associative values, then it will be identified as an outstanding natural landscape. Outstanding natural features can also be included within this assessment.*

*There are also landscapes in Marlborough that, although their values are not as significant as those for an outstanding natural feature or landscape, can still make a significant contribution to the appreciation and quality of our environment. A range of ~~sensory~~ perceptual values can contribute to the amenity of these landscapes, including scenic beauty, coastal character, dramatic or attractive natural features within the landscape and the openness or naturalness of the landscape. Where these ~~sensory~~ perceptual values are collectively considered to be high, the landscape can be categorised as a landscape with high amenity value.*

*Those landscapes that are an outstanding natural feature or an outstanding natural landscape are mapped in the MEP. Landscapes identified as having high amenity values which are more sensitive to change are also mapped in the MEP. The two specific areas considered sensitive to change are the Marlborough Sounds High Amenity Landscape and the Wairau Dry Hills High Amenity Landscape. Mapping makes it clear to resource users where Marlborough's significant landscapes are located. Additionally, the values that make these landscapes significant are described in Appendix 1. These values should be considered when resource consent applications are made and decided upon, including the extent to which they may be affected by a particular use or development.*

*~~Controls will apply to both of these landscapes, as set out in subsequent policy. Landscapes with high amenity values not identified as being less sensitive to change will not be included in the MEP subject to specific management for landscape outcomes.~~*

80. A consequential change to the name of the 'Marlborough Sounds Coastal Landscape' and the Wairau Dry Hills Landscape' to 'Marlborough Sounds High Amenity Landscape' and Wairau Dry Hills High Amenity Landscape', respectively. Note that this decision is also a consequence of the decision on the Chapter 7 Introduction, specifically to replace 'visual amenity landscape' with 'landscape with high amenity value'.

### Policy 7.2.2

**Control activities that have the potential to degrade the amenity values that contribute to the Wairau Dry Hills Landscape by:**

- (a) setting permitted activity standards that are consistent with the existing landscape values and that will require greater assessment where proposed activities and structures exceed those standards; and**
- (b) requiring resource consent for commercial forestry activities.**

81. Several policies under the heading Landscape were deferred to be heard under the 'Miscellaneous' hearing topic to address their alignment with the recently released National Environmental Standards for Plantation Forestry (NESPF). Policy 7.2.2 was one of these.
82. The submissions either seek that the policy provide greater enabling of commercial forestry activities, or their prohibition in the Wairau Dry Hills Landscape. The greater enabling of commercial forestry sought by Federated Farmers reflects other aspects of their submissions which seek deletion of high amenity landscapes from the PMEP, and that primary production should be viewed as having a positive contribution to the values and attributes of the Wairau Dry Hills.
83. Other submissions on the policy variously request: amend the policy to read 'Control Enable activities that have the potential to degrade and are consistent with the amenity values that contribute to the Wairau Dry Hills Landscape by: (a) setting permitted activity standards that are consistent with the existing landscape values and uses ~~and that will require greater assessment where proposed activities and structures exceed those standards; and (b) requiring resource consent for commercial forestry activities.~~<sup>61</sup>; amend the policy to read 'Control activities that have the potential to degrade the amenity values that contribute to the Wairau Dry Hills Landscape by: (a) setting permitted activity standards that are consistent with the existing landscape values and that will require greater assessment where proposed activities and structures exceed those standards; and (b) ~~requiring resource consent for commercial forestry activities~~ prohibiting new resource consents for commercial forestry.';<sup>62</sup>
84. Federated Farmers' submission acknowledges that the NESPF provides that a district plan may make the planting of new commercial forestry in a visual amenity landscape such as the Wairau Dry Hills a permitted activity.

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<sup>61</sup> Federated Farmers (425.105).

<sup>62</sup> Judy and John Hellstrom (688.177).



### Section 42A Report

85. No change was recommended to the topic in the Section 42A Report (Dale), or in the reply to evidence presented at the hearing. Neither were any changes recommended as part of the Section 42A Report and Reply to Evidence on Topic 22 Forestry.
86. The report writer observes that commercial forestry is not allowed but shelter belts are, especially with a preference for indigenous species on ridges, valleys and hills.<sup>63</sup>
87. The Section 42A Report (Dale) also identifies that for the purposes of the NESPF, the Wairau Dry Hills Landscape is a 'visual amenity landscape'. As a result of the alignment process the new rules provide for harvesting and replanting of commercial forestry in the Wairau Dry Hills Landscape as a permitted activity under Rules 3.1.6 and 3.1.7, while the planting of new commercial (plantation) forestry in the Wairau Dry Hills Landscape is a controlled activity under Regulation 15 NESPF requiring a resource consent to be obtained.
88. The Section 42A Report (Dale) identifies that none of the circumstances in Regulation 6 NESPF that enable a more stringent activity status for the replanting of commercial forestry in visual amenity landscapes would apply. For that reason the Judy and John Hellstrom and the Hawkesbury Farm submissions, seeking to make forestry a prohibited activity in the Wairau Dry Hills Landscape, are not recommended in the Reply to Evidence (Dale)<sup>64</sup> to be included in the policy.
89. The Section 42A Report says distinctive character of the Wairau Dry Hills Landscape identified in the PMEP as open, relatively undeveloped grasslands, is its sensitivity to change. Planting of new commercial forestry would affect their distinctive golden colour in some lights, and open terrestrial values which are unencumbered by modifications through unnatural vegetation patterns.
90. Nevertheless, the Section 42A Report (Misc), in view of the conclusion above, identifies that control over the planting of new commercial forestry is appropriate and should remain a controlled activity under Regulation 15 NESPF to allow effects on visual amenity values to be considered through a resource consent.<sup>65</sup> It is recommended that clause (b) of the policy be amended to recognise that resource consent is not required for replanting commercial forestry in the Wairau Dry Hills Landscape so as to align with the NESPF.

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<sup>63</sup> Hawkesbury Farms (767.1).

<sup>64</sup> Section 42A Report, Miscellaneous Topics, paragraph 39.

<sup>65</sup> Section 42A Report, Miscellaneous Topics, paragraph 41.

91. For those submitters who sought the removal of commercial forestry activities from the policy, we note that a distinction should be made in the policy and explanation between planting and replanting as set out in the Miscellaneous Report (page 11). The term ‘commercial forestry’ should be replaced with ‘plantation forestry’.<sup>66</sup>
92. The recommendation is to amend Policy 7.2.2 as follows:

*Control activities that have the potential to degrade the amenity values that contribute to the Wairau Dry Hills Landscape by:*

- (a) *setting permitted activity standards that are consistent with the existing landscape values and that will require greater assessment where proposed activities and structures exceed those standards; and*
- (b) *requiring resource consent for new commercial forestry activities planting, but not replanting. The Wairau Dry Hills Landscape is more sensitive to change than other landscapes with high amenity value as it forms the visual backdrop to Blenheim and the Wairau Plain, providing an attractive contrast to the valley floor. (The specific values that are present within this landscape are set out in Appendix 1 of the MEP.) While most landscapes identified as having high amenity value have a nonregulatory approach as the means of maintaining and enhancing landscape value, for the Wairau Dry Hills landscape a regulatory approach is considered more appropriate in order to fulfil statutory obligations under Section 7(c) of the RMA. Only one activity, new commercial forestry, needs to be assessed through the resource consent process, as it could have a significant adverse effect on the landscape values of this area. The use of standards for permitted activities is considered appropriate for other activities in order to manage effects on landscape values, as resource use and development is generally to be expected within this landscape.<sup>67</sup>*

### **Consideration**

93. Controlled activity status for afforestation proposed in an amenity landscape does not give councils a real ability to control effects on those landscapes. This is because a controlled activity resource consent *must* be granted:

#### **87A Classes of activities**

...

<sup>66</sup> Section 42A Report, Miscellaneous, pages 10-11.

<sup>67</sup> Federated Farmers (425.105).

**(2) If an activity is described in this Act, regulations (including any national environmental standard), a plan, or a proposed plan as a controlled activity, a resource consent is required for the activity and—**

**(a) the consent authority must grant a resource consent except if—**

**(i) section 106 applies; or**

**(ii) section 55(2) of the Marine and Coastal Area (Takutai Moana) Act 2011 applies; and**

**(b) the consent authority’s power to impose conditions on the resource consent is restricted to the matters over which control is reserved (whether in its plan or proposed plan, a national environmental standard, or otherwise); and**

**(c) the activity must comply with the requirements, conditions, and permissions, if any, specified in the Act, regulations, plan, or proposed plan.**

94. Ensuring this is a controlled activity leaves the Council with very little option but to control forestry with little or no control over the impact of adjacent forestry. Nor can the Council set conditions on management plans, although they can view them, which is a serious oversight in the context of the sustainable management of the Wither Hills.
95. The Wither Hills define the township of Blenheim in its setting. By labelling the hills a ‘visual catchment’ the alignment process removes the NZCPS Policy 15 Landscape values from the assessment of effects and is ultra vires s 7(c) RMA **The maintenance and enhancement of amenity values**. It gives no credence either to the definition of ‘amenity values’ as set out in s 2 RMA where amenity values have an extended definition including ‘aesthetic values’, ‘memorability’, ‘pleasantness’ – all of which are encompassed within NZCPS Policy 15(c)(iv).
96. Dr Steven provided an international definition of the aesthetic experience as ‘... a feeling of pleasure attributable to directly perceivable characteristics of spatially and/or temporally arrayed landscape patterns’.<sup>68</sup> This shifts the analysis away from a subjective sensory interpretation to one that is directly perceivable not ‘sensed’ – bringing it back again to the definition of landscape.
97. The Interpretation section of the NPSPF describes a visual amenity landscape means ‘a landscape or landscape feature that (a) is identified in the district plan as having visual amenity values *however described*; (b) is identified in the policy statement or plan by its location, including by a map, a schedule, or a description of the area’.<sup>69</sup>

### **Decision**

98. Policy 7.2.2 is amended as follows:

<sup>68</sup> FNHTB, Michael Steven Evidence, citing Gobster et al (2007) paragraphs 138-139, footnote 15.

<sup>69</sup> Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017. Part 1 Preliminary Processes 3 Interpretation 3, page 13.

*Control activities that have the potential to degrade the amenity values that contribute to the Wairau Dry Hills High Amenity Landscape by:*

- (a) setting permitted activity standards that are consistent with the existing landscape values and that will require greater assessment where proposed activities and structures exceed those standards; and*
- (b) requiring resource consent for new commercial plantation forestry activities planting, but not replanting.*

*The Wairau Dry Hills Landscape is more sensitive to change than other landscapes with high amenity value as it forms the visual backdrop to Blenheim and the Wairau Plain, providing an attractive contrast to the valley floor. (The specific values that are present within this landscape are set out in Appendix 1 of the MEP.) While most landscapes identified as having high amenity value have a non-regulatory approach as the means of maintaining and enhancing landscape value, for the Wairau Dry Hills landscape a regulatory approach is considered more appropriate in order to fulfil statutory obligations under Section 7(c) of the RMA. Only one activity, new commercial plantation forestry, needs to be assessed through the resource consent process, as it could have a significant adverse effect on the landscape values of this area. The use of standards for permitted activities is considered appropriate for other activities in order to manage effects on landscape values, as resource use and development is generally to be expected within this landscape.*

### **Policy 7.2.3**

**Control activities that have the potential to degrade the amenity values that contribute to those areas of the Marlborough Sounds Coastal Landscape not identified as being an outstanding natural feature and landscape by:**

- (a) using a non-regulatory approach as the means of maintaining and enhancing landscape values in areas of this landscape zoned as Coastal Living;**
- (b) setting standards/conditions that are consistent with the existing landscape values and that will require greater assessment where proposed activities and structures exceed those standards; and**
- (c) requiring resource consent for commercial forestry activities.**

99. Policy 7.2.3 addresses the control of activities within the Marlborough Sounds Coastal [High Amenity] Landscape by using a non-regulatory approach to maintain values in the Coastal Living Zone, setting permitted activity thresholds, and requiring resource consent for

commercial forestry activities, to implement Objective 7.2. No change was recommended to the policy in the original Section 42A Report, or in the reply to evidence presented at the hearing. No changes were also recommended as part of the Section 42A Report and reply to evidence on Topic 22 Forestry.

100. The submissions which were deferred for hearing in the Miscellaneous Topic requested:

- Amend the policy to read:

*For areas of the Marlborough Sounds Coastal Landscape that are classified as an Outstanding Feature and Landscape, enable ~~Control~~ activities that ~~have the potential to degrade~~ are consistent with the ~~amenity~~ values and attributes that contribute to ~~those areas of the Marlborough Sounds Coastal Landscape not identified as being an outstanding natural feature and landscape~~ by:*

*(a) using a non-regulatory approach as the means of maintaining and enhancing landscape values in areas of this landscape zoned as Coastal Living;*

*(b) setting permitted standards/conditions that are consistent with the existing landscape values and that will require greater assessment where proposed activities and structures exceed those standards; ~~and~~*

*(c) requiring resource consent for commercial forestry activities.<sup>70</sup>*

- Delete the policy and replace with a new policy that establishes a compliance regime that provides a fast track resource consent approval for landowners, and operators, approved by the Council for their past satisfactory environmental performance, having regard also to the internal regime of each organisation for achieving environmental protection.<sup>71</sup>
- Amend the policy by deleting clause (c).<sup>72</sup>
- General comment – delete provisions in relation to plantation forest.<sup>73</sup>
- Amend clause (c) of the policy to read ‘*requiring controlled activity resource consent for commercial forestry activities and restricted discretionary resource consent for new commercial forestry activities*’.<sup>74</sup>

<sup>70</sup> Federated Farmers (425.109).

<sup>71</sup> D C Hemphill (648.33).

<sup>72</sup> John and Judy Hellstrom (688.178).

<sup>73</sup> MFIA (962.54).

<sup>74</sup> Nelson Forests Ltd (990.189).

- Amend clause (c) of the policy to read '*requiring resource consent for commercial forestry activities including re-establishment after harvesting*'.<sup>75</sup>

#### Section 42A Report

101. The submissions either seek the policy provide greater enabling of commercial forestry activities, or their restriction in the Marlborough Sounds Coastal Landscape. The enabling of commercial forestry sought by Federated Farmers reflects other aspects of their submissions which seek deletion of landscapes with high amenity from the PMEP, and that primary production should be viewed as having a positive contribution of the values and attributes of the landscape. Other submissions consider requiring resource consent for commercial forestry will prevent replanting of forests, affect reinvestment in forestry, and affect good environmental outcomes. The submission of John and Judy Hellstrom considers there should be no new consents for commercial forestry issued in the Marlborough Sounds.
102. The Marlborough Sounds Coastal Landscape is a '*visual amenity landscape*' for the purposes of the NESPF. As a result of the completion of the NESPF alignment process, the PMEP rules provide for replanting of commercial forestry in the Marlborough Sounds Coastal Landscape as a permitted activity under Rule 4.1.6. The planting of new commercial forestry and harvesting will be a restricted discretionary activity under Rules 4.5.3 and 4.5.4 of the PMEP, requiring resource consent. This rule approach is largely consistent with that sought by Nelson Forests Ltd.
103. In response to the submissions of Federated Farmers, D C Hemphill and the MFIA, the restricted activity status for planting of new commercial forestry and harvesting reflects the circumstances under Regulation 6 of the NESPF which enables more stringent rules for commercial forestry in order to specifically manage:
- effects on wetlands under s 6(c) RMA;
  - sedimentation within the coastal environment under NZCPS Policy 22;
  - effects on the values of the Marlborough Sounds ONFL under NZCPS Policy 15(a);
  - effects on the values of the Marlborough Sounds Coastal Landscape under NZCPS Policy 15(b);
  - effects on drinking water supplies for more than 25 people where the water take is from a water body.

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<sup>75</sup> Port Underwood Association (1042.4).

104. In regard to the Marlborough Sounds Coastal Environment, the greater stringency is enabled by the NZCPS Policy 15(b) requirement to *'avoid significant adverse effects **and avoid, remedy or mitigate** other adverse effects of activities on other natural features and landscapes in the coastal environment'* (our emphasis). This requires councils to manage the adverse effects of activities in the coastal environment, including forestry, on high amenity landscapes identified in accordance with s 7(c) RMA, and which otherwise fall outside the higher status of being an ONFL under s 6(b) RMA.

#### **Consideration**

105. The distinctive characteristics of the Marlborough Sounds High Amenity Landscape in the PMEP are its high aesthetic values and high levels of naturalness and perceived coherence. Planting of new areas of commercial forestry and harvesting has the potential to significantly adversely affect these values. Accordingly, it is considered that providing for planting of new commercial forestry and harvesting in this landscape, as a restricted discretionary activity, is appropriate to allow effects on landscape values to be considered through a resource consent consistent with NZCPS Policy 15(b) and s 7(c) RMA. The Panel considered the request of Federated Farmers. It agrees that the standards specified in (b) are permitted activity standards. However the request to recognise the ability to replant is problematic. As notified, Rule 4.1.6 does permit the replanting of plantation forestry. However, the Panel considered their status of replanting as part of considering the relief requested in Topic 22: Forestry. Its determination in that topic was to impose more stringent rules on replanting in close proximity to the coastal marine area, as follows:

- A controlled activity rule for replanting between 30 and 200 metres of the coastal marine area;
- A restricted discretionary activity rule for replanting between 0 and 30 metres of the coastal marine area.

106. These rules, more stringent than the NESPF, were imposed to give effect to Policy 22 of the NZCPS. For this reason, the wording requested by the report writer cannot be given effect to in respect of (c) and it should remain as notified.

107. Rules 4.5.3 and 4.5.4 as amended to align with the NESPF did not specify effects on the values of the Marlborough Sounds Coastal Landscape as a matter over which the Council will consider resource consent applications. Based on the above analysis, it is recommended the assessment matters for Rules 4.5.3 and 4.5.4 be amended to include reference to effects on

the values of the Marlborough Sounds High Amenity Landscape, as a matter to be considered in the assessment of resource consent applications. Such an amendment can be made without further formality under s 44A RMA to ensure alignment with the NESPF.

108. In response to the submission of Port Underwood Association, it is acknowledged that Regulation 6 of the NES-PF would enable a more stringent rule to also be applied to replanting existing commercial forestry. Applying a more stringent rule would, however, affect continuing investment for existing lawfully established plantation forestry with resultant effects on economic and social wellbeing. Furthermore, the Marlborough Sounds High Amenity
109. Landscape has been identified on the basis of the existing commercial forestry, and which therefore makes up part of its values. Accordingly, replanting of existing commercial forestry will not further degrade values in a way which would be inconsistent with NZCPS Policy 15(b) and s 7(c) RMA within the coastal environment. However the submitter's point can be accepted in part as replanting will not be permitted in close proximity to the coastal marine area. Please see earlier discussion with respect to the influence of the Panel's decision on Topic 22: Forestry in this regard.

#### **Decision**

110. Amend Policy 7.2.3 and its explanation as follows:

*Control activities that have the potential to degrade the amenity values that contribute to those areas of the Marlborough Sounds Coastal Landscape not identified as being an outstanding natural feature and landscape by:*

*(a) using a non-regulatory approach as the means of maintaining and enhancing landscape values in areas of this landscape zoned as Coastal Living;*

*(b) setting permitted activity standards/conditions that are consistent with the existing landscape values and that will require greater assessment where proposed activities and structures exceed those standards; and*

*(c) requiring resource consent for new plantation ~~commercial~~ forestry ~~activities~~ planting and harvesting.*

*Similar to the Wairau Dry Hills High Amenity Landscape, the Marlborough Sounds ~~Coastal~~ High Amenity Landscape is more sensitive to change than other landscapes with high amenity values. The Marlborough Sounds is an iconic and unique landscape with considerable scenic beauty. While some parts of the Sounds have more significant values than others, in its*



*entirety the Sounds has considerable landscape value, which is why the whole of the Sounds have been included within the Marlborough Sounds ~~Coastal~~ High Amenity Landscape. However, the areas subject to the management framework of this policy are those not identified as an outstanding natural feature and outstanding natural landscape.*

*Because the Marlborough Sounds is subject to development pressure for a range of subdivision, use and development, it is appropriate to control these activities through a range of means. For those areas zoned Coastal Living, there has already been a degree of modification to landscape values and in these areas a non-regulatory approach is considered appropriate to manage further landscape impacts. The remaining areas within the Marlborough Sounds ~~Coastal~~ High Amenity Landscape have a management approach that includes standards for permitted activities and conditions on consent for controlled activities, as it is expected that there will be some resource use within these areas. The one exception is a restricted discretionary activity resource consent requirement for commercial forestry to ensure that this activity can be assessed for its impact on the landscape values identified in Appendix 1.*

111. Amend assessment matter 4.5.3.3 as follows:

*The effects on the values of the Marlborough Sounds ~~Coastal~~ High Amenity Landscape, and Marlborough Sounds Outstanding Natural Feature and Landscape.*

112. Amend assessment matter 4.5.4.3 as follows:

*The effects on the values of the Marlborough Sounds ~~Coastal~~ High Amenity Landscape, and Marlborough Sounds Outstanding Natural Feature and Landscape.*

#### **Policy 7.2.4**

**Where resource consent is required to undertake an activity within an outstanding natural feature and landscape or a landscape with high amenity value, regard will be had to the potential adverse effects of the proposal on the values that contribute to the landscape.**

113. Several submitters seek to retain the policy as notified; others seek: its deletion;<sup>76</sup> delete the policy or provide an amendment to delete and replace consistency of the proposal with the values and ensure farming and rural activities are recognised as positively contributing to the values and attributes of outstanding natural features and outstanding natural landscapes;<sup>77</sup> to make it clear that a cumulative effects policy must be applied when applying Policy 7.24;<sup>78</sup> an assessment of cumulative effects be undertaken when identifying areas where coastal marine

<sup>76</sup> AQNZ (401.75), MFA (426.79), EDS (698.52).

<sup>77</sup> Federated Farmers (425.111).

<sup>78</sup> Clova Bay Residents Association (152.13).

landscape values are under threat;<sup>79</sup> set out the requirements of NZCPS Policy 15(a) and (b) and achieve the protection required by s 6 RMA;<sup>80</sup> amend the policy to note that the assessment of effects on landscape values may include consultation.<sup>81</sup>

114. AQNZ and MFA initially sought to delete Policies 7.2.1, 7.2.4 and 7.2.5, and add an amended new policy. This new policy would provide further direction in determining the character, intensity and scale of adverse effects on landscape values by identifying:

*Minor transitory effects may not be an adverse effect.*

*Many areas contain ongoing use and development present at the time of identifying the area as high amenity or outstanding landscapes, and that such use may be dynamic, diverse, or seasonal.*

*There may be more than minor cumulative adverse effects from minor or transitory adverse effects.*

*Have regard to restoration and enhancement of landscapes.*

*That it may be appropriate to offset residual adverse effects.*

*That where adverse effects cannot be practicably avoided, adverse effects should be minimised.*

*That a future adverse effect may be avoided where the effect is temporary and authorised for a finite term.<sup>82</sup>*

115. EDS sought removal of the ability to remediate adverse effects on outstanding natural features and outstanding natural landscapes outside of the coastal environment.<sup>83</sup>

#### **Section 42A Report**

116. In terms of the submission by AQNZ and MFA, the Section 42A Report (Dale) identifies that this approach would provide a greater level of specificity in the PMEP which is unnecessary, duplicate other policies, and is contrary to proper assessment practice.
117. In terms of the EDS submission, the report writer states there is no similar national direction to NZCPS Policy 15(a) which applies outside the coastal environment. Consequently the

<sup>79</sup> KCSRA (868.13).

<sup>80</sup> Forest and Bird (715.156).

<sup>81</sup> Te Rūnanga o Kaikōura and Te Rūnanga o Ngāi Tahu (1189.72 and .73).

<sup>82</sup> Section 42A Report (Dale), page 44.

<sup>83</sup> EDS (698.53).

requirement in Policy 15(a) to avoid effects on outstanding landscapes and outstanding natural features does not apply.

118. Both submissions are recommended to be rejected.
119. Notwithstanding that report, in his Reply to Evidence, the Section 42A Report writer (Dale) accepted on the basis of legal submissions that case law has determined that minor or transitory adverse effects may be appropriate and may not need to be avoided in the context of NZCPS Policy 13. He also accepts that it is appropriate to include reference to restoration and enhancement of landscapes.
120. Consequently, it is recommended to make reference to minor and transitory effects as being appropriate, and restoration and enhancement in Policy 7.2.4 as follows:

*Policy 7.2.4 – Where resource consent is required to undertake an activity within an outstanding natural feature and landscape or a landscape with high amenity value;*

*(a) regard will be had to the potential adverse effects of the proposal on the values that contribute to the landscape;*

*(b) recognise that minor or transitory adverse effects may not need to be avoided;*

*(c) regard will be had to any restoration and enhancement of the landscape proposed.<sup>84</sup>*

### **Consideration**

121. We consider that the word ‘remediate’ adverse effects is farsighted in its implications. There are a number of areas in the coastal environment, both terrestrial and in the coastal marine environment, that will provide opportunities for remediation in the future – former marine farm sites, buildings, indigenous biodiversity, both on the seabed and on land.
122. The Panel agreed with Ngāi Tahu’s request for there to be recognition in this policy of the need for consultation with Marlborough’s tangata whenua iwi to assess adverse effects on landscapes that have cultural values.

### **Decision**

123. As recommended, Policy 7.2.4 is amended as follows:

*Policy 7.2.4 – Where resource consent is required to undertake an activity within an outstanding natural feature and outstanding natural landscape, or a landscape with high amenity value;*

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<sup>84</sup> S42A Report (Dale), Reply to Evidence, pages 20 and 21.

- (a) ~~regard will be had~~ have regard to the potential adverse effects of the proposal on the values that contribute to the landscape;*
- (b) recognise that minor or transitory adverse effects may not need to be avoided;*
- (c) have regard to any restoration and enhancement of the landscape proposed.*

124. The explanatory statement to Policy 7.2.4 is amended as follows:

*... The level of assessment should reflect the scale of the proposed activity and the potential adverse effects on the values that contribute to the landscape.*

*Where Tangata Whenua iwi values contribute to an outstanding natural feature or landscape, consultation may be required with iwi.*

### **Policy 7.2.7**

**Protect the values of outstanding natural features and landscapes and the high amenity values of the Wairau Dry Hills and the Marlborough Sounds Coastal Landscapes by:**

- (a) In respect of structures:**
  - (i) avoiding visual intrusion on skylines, particularly when viewed from public places;**
  - (ii) avoiding new dwellings in close proximity to the foreshore;**
  - (iii) using reflectivity levels and building materials that complement the colours in the surrounding landscape;**
  - (iv) limiting the scale, height and placement of structures to minimise intrusion of built form into the landscape;**
  - (v) recognising that existing structures may contribute to the landscape character of an area and additional structures may complement this contribution;**
  - (vi) making use of existing vegetation as a background and utilising new vegetation as a screen to reduce the visual impact of built form on the surrounding landscape, providing that the vegetation used is also in keeping with the surrounding landscape character; and**
  - (vii) encouraging utilities to be co-located wherever possible.**
- (b) In respect of land disturbance (including tracks and roads):**
  - (i) avoiding extensive land disturbance activity that creates a long term change in the visual appearance of the landscape, particularly when viewed from public places;**
  - (ii) encouraging tracks and roads to locate adjacent to slopes or at the edge of landforms or vegetation patterns and to follow natural contour lines in order to minimise the amount of land disturbance required;**
  - (iii) minimising the extent of any cuts or side castings where land disturbance is to take place on a slope; and**
  - (iv) encouraging the revegetation of cuts or side castings by seeding or planting.**
- (c) In respect of vegetation planting:**
  - (i) avoiding the planting of new exotic forestry in areas of outstanding natural features and landscapes in the coastal environment of the Marlborough Sounds;**
  - (ii) encouraging plantations of exotic trees to be planted in a form that complements the natural landform; and**
  - (iii) recognising the potential for wilding pine spread.**

### Section 42A Report

125. Through the extensive number of submissions and evidence, this policy went through a number of minor but important iterations which are found in the Section 42A Report<sup>85</sup> and the Reply to Evidence.<sup>86</sup>
- ‘Protection’ is not the legal test for s 7 RMA quality landscapes, aimed at addressing effects on high amenity values of the Marlborough Sounds Coastal Landscape.
  - Transpower sought an amendment identifying that the functional and operational needs of regionally significant infrastructure should be recognised in a new (a)(viii) and (b)(vi) set out in the Reply to Evidence.<sup>87</sup>
  - The words ‘close proximity’ in (a)(ii) introduces subjectivity which is unnecessary and is replaced with the word ‘adjacent’.
  - NZTA sought changes to 7.2.7(b) that essentially sought an easing of the policy direction to allow for remediation and mitigation of the adverse effects of land disturbance on landscape values.

### Consideration

126. The Panel acknowledges that the ‘protection’ focus in the coastal environment is potentially too onerous and represents a block in managing activities by maintenance and enhancement in response to the requirement of s 7(c) RMA. The concept of their protection should be replaced with ‘... and maintain and enhance landscapes with high amenity value by ...’.<sup>88</sup> We also consider that the word ‘enhance’ should be included to reflect the wording in s 7(c) RMA. Otherwise we accept the amendments as recommended.
127. As a consequential amendment, amend the word ‘visual’ in Policy 7.2.7(b)(i) and substitute ‘nested’.
128. With respect to the submission of NZTA, the Panel drew particularly on the evidence of Mr Bentley, but also had the benefit of Mr Miller’s considerable experience and expertise, heard in other topics, as to the effects of land disturbance activity on steep slopes. In addition various general observations by Panel members over time of the effects of tracking on slopes in the Marlborough Sounds and in the hill country of South Marlborough confirmed that evidence. Those factors led the Panel to the conclusion that tracking on slopes has the

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<sup>85</sup> S42A Report (Dale), pages 49-54.

<sup>86</sup> S42A Report (Dale), Reply to Evidence, pages 25-26.

<sup>87</sup> Transpower, Ainslie McLeod, Evidence, paragraph 40.

<sup>88</sup> S42A Report (Dale), page 53.

potential for significant adverse effects on landscape values. Those effects can be created by the track itself or may also be induced through erosion if the tracking is not properly managed. Subject to other changes to 7.2.7(b) in this decision, the Panel considers that the policy direction to be appropriate. However, the Panel felt that that the policy would benefit from additional explanation to highlight the potential effect of tracking on landscape values and the importance of applying good management practice to that tracking.

129. A new sentence is inserted, to the end of the first paragraph as follows: ‘Tracking on slopes, if not appropriately constructed and maintained, can induce erosion which has the potential for significant landscape effects.’
130. The evidence heard on this policy did cause the Panel to consider the appropriateness of the wording of Policy 7.2.7(b)(i). The Panel notes that the term ‘extensive’ is used in this provision. Tracking does not need to be extensive to cause erosion or to open tunnel gully prone land to gouging. All that is required for a major slip process to commence is a cut through a short width or a deep cut over a short section of a water course. That erosion could result in significant landscape degradation that can exist for a long period of time.
131. The Panel agrees with both Transpower and the report writer with respect to the need to consider the direction in both (a) and (b) of the policy in the context of the functional and operational needs of regionally significant infrastructure. Instead of inserting the recommended text as part of the list of management responses in respect of structures and land disturbance, the Panel believes the intent of the submission is more effective if this matter stands alone.

### **Decision**

132. Policy 7.2.7 is amended as follows:

*Policy 7.2.7 - Protect the values of outstanding natural features and outstanding natural landscapes and maintain and enhance the high amenity values of the Wairau Dry Hills and the Marlborough Sounds ~~Coastal~~ High Amenity Landscapes by:*

*(a) In respect of structures:*

- (i) avoiding visual intrusion on skylines, particularly when viewed from public places;*
- (ii) avoiding new dwellings ~~in close proximity~~ adjacent to the foreshore;*
- (iii) using reflectivity levels and building materials that complement the colours in the surrounding landscape;*

- (iv) *limiting the scale, height and placement of structures to minimise intrusion of built form into the landscape;*
  - (v) *recognising that existing structures may contribute to the landscape character of an area and additional structures may complement this contribution;*
  - (vi) *making use of existing vegetation as a background and utilising new vegetation as a screen to reduce the visual impact of built form on the surrounding landscape, providing that the vegetation used is also in keeping with the surrounding landscape character; and*
  - (vii) *encouraging utilities to be co-located wherever possible;*
- whilst recognising the functional and operational needs of regionally significant infrastructure.*

(b) *In respect of land disturbance (including tracks and roads):*

- (i) *avoiding ~~extensive~~ land disturbance activity that creates a long term change in the ~~visual~~ appearance of the landscape, particularly when viewed from public places;*
  - (ii) *encouraging tracks and roads to be located adjacent to slopes or at the edge of landforms or vegetation patterns and to follow natural contour lines in order to minimise the amount of land disturbance required;*
  - (iii) *minimising the extent of any cuts or side castings where land disturbance is to take place on a slope; and*
  - (iv) *encouraging the revegetation of cuts or side castings by seeding or planting;*
- whilst recognising the functional and operational needs of regionally significant infrastructure.*

(c) *In respect of vegetation planting:*

- (i) *avoiding the planting of new exotic forestry in areas of outstanding natural features and outstanding natural landscapes in the coastal environment of the Marlborough Sounds where they degrade landscape values;*
- (ii) *encouraging plantations of exotic trees to be planted in a form that complements the natural landform;~~;~~~~and~~*
- ~~(iii) *recognising the potential for wilding pine spread.*~~

*The ~~sensory~~ perceptual values of outstanding natural features and outstanding natural landscapes are vulnerable to change brought about by resource use. The introduction of new structures, tracks and roads into the landscape, and the planting of new vegetation, all have the ability to affect our ~~visual~~ perception and appreciation of the landscape. Tracking on slopes, if not appropriately constructed and maintained, can induce erosion which has the potential for significant landscape effects.*

*Although not an exhaustive list, this policy describes how the visual integrity of the landscape can be maintained in response to changes in resource use. The subdivision of land can act as a pre-cursor to such changes, so it is also appropriate to have regard to this policy when considering subdivision consent applications. The matters in (a) to (c) guide how visual intrusion into significant landscapes can be avoided, remedied or mitigated. These mostly relate to undertaking land use activities in ways that limit the visual intrusion into the landscape. These actions will be implemented through a range of activity status as well as standards on permitted activity rules. Policy 7.2.1 provides guidance on how these controls will be applied to outstanding natural features and landscapes. For landscapes with high amenity value, guidance is provided through Policies 7.2.2 and 7.2.3.*

*This policy cannot apply to existing land use activities that have been lawfully established due to existing use rights under Section 10 of the RMA.*

### **Wilding pine spread**

133. Policy 7.2.7(c) and Method 7.M.3 (in part) seek to manage what in the Panel's view is a very real threat posed to Marlborough's significant landscapes posed by wilding pines. Amongst other submitters, Nelson Forests Ltd sought the deletion of the policy.

### **Consideration**

134. Through the course of the hearing the Panel heard evidence on the community initiatives to control wilding pines in the Marlborough Sounds and in South Marlborough. Those community efforts would appear to be making a meaningful difference to improving the landscape and those efforts should therefore be applauded.

135. Policy 7.2.7(c) was ultimately implemented in the notified plan through rules that control what species of tree can be planted in commercial forestry, woodlot forestry, conservation planting and carbon sequestration forestry as a permitted activity.

136. As a result of the NESPF alignment process, the rules restricting the planting of particular species were amended so that they no longer applied to commercial forestry. In its



consideration on Topic 22: Forestry, the Panel agreed with the recommendation of the report writer to delete all of the remaining rules from the MEP that restrict the planting of specific wilding tree species. This was on the basis that the rules would duplicate the requirements for unwanted organisms under the Biosecurity Act 1993.

137. As a result of both the NESPF alignment process and the above decision, 7.2.7(c)(iii) is to be deleted. There is also a consequential change required to Method 7.M.3 to delete the last bullet point of 7.M.3.

#### **Decision**

138. Delete 7.2.7(c)(iii) and the last bullet point of Method 7.M.3.

#### **Policy 7.2.8**

**Recognise that some outstanding natural features and landscapes and landscapes with high amenity value will fall within areas in which primary production activities currently occur.**

139. A number of submissions either support or seek to retain the policy; amend the policy to delete reference to 'amenity' and provide specific recognition of aquaculture as an existing primary production activity;<sup>89</sup> delete the policy;<sup>90</sup> amend the policy to read 'Recognise that some outstanding natural features and landscapes and landscapes with high amenity value will fall within areas in which primary production activities currently occur, and accept farming is an appropriate land use involving activities which may modify the landscape'.<sup>91</sup>
140. KCSRA argued that the policy should be amended to enable the refusal of marine farm permit applications in order to restore natural character. Consideration of the policy determined that the wording was wider than the original intent of the policy. The landscapes referred to were in South Marlborough not the coastal marine area.

#### **Section 42A Report**

141. The report writer accepted the direction in the policy should be stronger to meet the requirements of s 6(a) RMA and NZCPS Policy 15 by providing that primary production activities should be enabled where they do not degrade landscape values. Retention of the reference to primary production more broadly remains appropriate given the stronger direction in the policy.<sup>92</sup>

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<sup>89</sup> AQNZ (401.79), MFA (426.83).

<sup>90</sup> Clova Bay Residents Association (152.11), Forest and Bird (715.160), KCSRA (868.15).

<sup>91</sup> Federated Farmers (425.115).

<sup>92</sup> S42A Report (Dale), Reply to Evidence, page 27.

### Consideration

142. We agree in part with the report writer's approach, and with Forest and Bird's submissions to identify that, where primary industries form part of the existing landscape, they are valued and this should be captured (in Appendix 1).<sup>93</sup>
143. We paid close attention to what Federated Farmers were saying in evidence around the relationship between landscapes (ONF, ONL, high amenity landscapes) and primary production. Federated Farmers support Policy 7.2.8 in part, that is, the landscape chapter is the only policy recognising that primary production activities take place in these landscapes; that it is primary production that has shaped the nature of some of the areas; and that landscape values and primary production are closely linked.
144. We accept that the scale and character of the modifications to a farming landscape are more appropriate and cohesive than those compared with the modifications created by urban, industrial or network utilities. We accept that structures, crop types, fences and shelter belts change over time in response to changing conditions, and have only a limited effect on an overall impact on landscapes due to scale.<sup>94</sup>
145. Under the *Man O' War* case law, the Court of Appeal was asked is it relevant to the identification of an outstanding natural landscape (that is also a working farm) whether the policy framework (for a resource consent) would prohibit or severely constrain its future use for farming; whether in fact the determination of where a landscape is an outstanding natural landscape, should (applicants) take account of a 'fourth dimension', that is, future changes over time by reason of that landscape's character as a working farm. The Court's answer was no that the continued use as a working farm would not affect the status of the ONL.<sup>95</sup>
146. We consider that the policy requires an improvement in the wording to limit scope to South Marlborough by rewording as follows: 'Recognise that farming in South Marlborough contributes to the values of some outstanding natural features and landscapes with amenity value'. And delete the last paragraph of the explanation that currently refers to the Marlborough Sounds.

### Decision

147. Policy 7.2.8 is amended to read as follows:

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<sup>93</sup> Forest and Bird, Deborah Martin Evidence, page 25.

<sup>94</sup> Federated Farmers, Darryl Sycamore Evidence, paragraphs 48-49.

<sup>95</sup> *Man O War Station Limited v Auckland Council* [2017] NZCA 24, CA 422/2015, Question of Law A4, page 2

*Policy 7.2.8 - Recognise that farming in South Marlborough contributes to the values of some outstanding natural features and outstanding natural landscapes and landscapes with high amenity value ~~will fall within areas in which primary production activities currently occur.~~<sup>96</sup>*

148. The explanatory statement to Policy 7.2.8 is amended to read:

*In some areas where outstanding natural features and landscapes and landscapes with high amenity values have been identified in the overlays of Volume 4 of the MEP, there ~~are~~ is a range of primary production activities taking place.*

*Some landscapes, especially south of the Wairau River, are a product of past and present extensive pastoral farming. In this situation, the continuation of such pastoral farming is not anticipated to threaten the biophysical, ~~sensory~~ perceptual or associative values that contribute to landscape significance. This will be reflected in the status of regional and district rules that apply in identified outstanding natural features and landscapes and landscapes with high amenity value in rural areas. Existing land uses within these areas will also have existing use rights under Section 10 of the RMA.*

~~*Primary production activities currently also occur in the Marlborough Sounds in locations identified within the MEP as having landscape significance. Rules applying to land uses do require consent for new commercial forestry activity and land disturbance over certain limits. However given the existing use rights under Section 10 of the RMA, existing land-based primary production activity, even within an area of landscape significance, can continue to take place.*~~

### **Policy 7.2.9**

**When considering resource consent applications for activities in close proximity to outstanding natural features and landscapes, regard may be had to the matters in Policy 7.2.7.**

The extent of outstanding natural features and landscapes are identified in the MEP. Establishing a boundary beyond which values no longer contribute to landscape significance is difficult. For this reason it may be appropriate to assess the impacts on landscape values for activities outside of, but in close proximity to, an identified outstanding natural feature or landscape. Application of this policy will be determined on a case-by-case basis, depending on the nature of the proposal and its proximity to the outstanding natural feature or landscape.

149. As is common with submissions on landscape issues the submissions on this policy range widely from support of retention of the policy as notified through to those seeking its deletion. Submissions seek amendments or deletion because of the following points - there is no statutory direction that provides for managing activities in close proximity to ONFL's; ONFL's have been appropriately identified, and there is no need for added protection beyond

<sup>96</sup> Section 42A Report, Reply to Evidence, page 87.

those identifications; the policy wrongly extends the same degree of protection provided beyond ONFL's; the policy creates uncertainty for resource users due to the broad discretion available to Council as to when to implement it; the policy would render resources incapable of reasonable use; no attempt has been made to quantify the costs of additional regulation flowing from the policy; clearer guidance is needed as to the appropriateness of activities adjacent to ONFL's.

### **Section 42A Report**

150. The original report summarised the effect of the policy as being to create:

*"... a buffer management approach whereby activities outside of ONFL's but near to them are managed to ensure the values that contribute to the ONFL are not degraded, in recognition that establishing the boundary beyond which the values no longer contribute to landscape significance is difficult."*

151. The report continued to point out that the policy left considerable uncertainty for Council and resource users as to identification of such adjacent areas and their extent. That left an undesirable degree of discretion as to how the policy was to be applied and hence a potential but immeasurable cost arising from its application. The original report, therefore, suggested its retention was finely balanced, but suggested awaiting the hearing before a final recommendation was made.

152. In the Reply to Evidence report the report writer acknowledged that regardless of whether this policy was in the PMEP, decision-makers would have to assess the effect of adjoining activities on ONFLs where there may be an adverse effect on the ONFL. That assessment would be done under policies 7.2.1 to 7.2.7.

153. However, the Reply to Evidence continued to recommend retention to *"provide clarity for plan users of the requirement for such an assessment to be made."* The report concluded in that regard:

*However, to provide more certainty as to when the policy will apply, it is accepted that an additional qualifier should be added that the policy will be applied where the activities undermines the values of the ONFL.*

154. The recommendation made therefore was for the policy to be amended as follows:

*When considering resource consent applications for activities in close proximity to outstanding natural features and landscapes where these could undermine the*

*outstanding values of such natural features and landscapes, regard may be had to the matters in Policy 7.2.7.*

### **Consideration**

155. The Panel took the view that the policy in fact did not add any clarity to the assessment process required under policies 7.2.1 to 7.2.7, and instead just added confusion as to why it existed.
156. Its deletion will have no effect in the Panel's view on the clear statutory obligations on decision-makers under s.104 RMA to consider all of those policies 7.2.1 to 7.2.7, as well as the other statutory considerations under s.104.

### **Decision**

157. Delete Policy 7.2.9 and its explanatory statement.

## **Methods of Implementation**

### **Method 7.M.6 Incentives**

158. MFIA consider incentives may be required to achieve a successful transition to land use that has less effect on landscape values.<sup>97</sup> The report writer recommends it is therefore appropriate to include an additional method on incentives<sup>98</sup>, and the Panel agrees.

### **Decision**

159. Method 7.M.6 is amended as follows:

#### *7.M.6 Incentives*

*Consider providing rates relief where landscape protection is formalised by way of covenant or similar methods of protection.*

*Consider providing funding to wilding pine control programmes and other community initiated control programmes for undesirable plants and animals.*

*Consider providing incentives to drive transition of commercial forests within outstanding natural features and outstanding natural landscapes, and landscapes with high amenity to alternative forestry or land uses, as informed by the outcomes of research.*

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<sup>97</sup> MFIA (962.62).

<sup>98</sup> S42A Report (Dale), pages 68-69.

## Anticipated Environmental Results

### 7.AER.1

160. The single anticipated result reads: 'Marlborough's outstanding natural features and landscapes and landscapes with visual amenity value are protected from degradation.'
161. The MDC and the Panel consider community programmes to control wilding conifers are a valid indicator, and the existing indicator should apply to all of Marlborough, not just Marlborough Sounds.

### Decision

162. The monitoring indicators under 7.AER.1 are amended as follows:

*Outstanding natural features and outstanding natural landscapes, and landscapes with high amenity value are included within the MEP. This will include the identification of values that ~~make~~ comprise each landscape ~~significant~~ and mapping of the extent of the ~~significant~~ landscapes.*

*The awareness of Marlborough's outstanding natural features and outstanding natural landscapes, and landscapes with high amenity value increases, as measured by public perception survey.*

*The biophysical, ~~sensory~~ perceptual and associative values that contribute to ~~the significance~~ of particular landscapes are maintained (or enhanced), as measured by reassessment of Marlborough's landscape.*

*Only appropriate development is allowed to occur in outstanding natural features and outstanding natural features and landscapes, as measured by reassessment of Marlborough's landscape.*

*The area of land vegetated by wilding pines in ~~the Marlborough Sounds~~ ~~decreases~~ does not increase.*

## New policy

### Cumulative effects

163. The Clova Bay Residents Association (CBRA) sought to add a new cumulative effects policy to meet the requirements of NZCPS Policy 7 similar to Policy 6.2.7 of the PMEP, addressing the management of cumulative effects on natural character. It requests the policy include reference to acceptable limits of cumulative effects through policy or guidelines to give effect to Policy 7.

164. KCSRA's submission<sup>99</sup> followed similar lines as CBRA, albeit with more specificity: an objective threshold for significant effects as in Policy 6.2.8 Natural character; areas at risk are identified already in the Boffa Miskell Marlborough Landscape Study 2015, and these should be identified in the plan items as scheduled.
165. AQNZ and MFA and MPI<sup>100</sup> seek that the policy promoted by the Section 42A report writer should take place *after* assessing the extensive definition of cumulative effects in s 3 RMA.
166. The report writer responds that cumulative adverse effects have been included in Chapter 7: they are covered by Policies 7.2.1-7.2.5. Nevertheless, he considers that in theory when considering the appropriateness of development at the time of consenting, such a policy would respond to s 6(b) and s 7(c) RMA, and NZCPS Policies 7 and 15 of the coastal environment.

### **Section 42A Report**

167. The report writer cites the DOC guidance note on NZCPS Policy 7 that recognises that cumulative effects in the coastal environment are better addressed through a strategic planning approach including the identification of environmental limits and integrated management of the impact of different and numerous similar activities. The guidance notes that the management responses need to be practicable, and will vary according to the significance of the issue and resources available.<sup>101</sup> The report writer does not recommend providing a new policy on this subject at this time.
168. The report writer accepts that greater clarity is required within the PMEP as to how cumulative effects of existing aquaculture within outstanding natural features and outstanding landscapes, and the Marlborough Sounds Coastal Landscape are to be addressed. But this would be more appropriately achieved as part of the development of the aquaculture provisions of the PMEP. The report writer did not recommend pursuing this submission at this time. Cumulative effects from activities in the coastal marine environment may be managed through a spatial planning approach including, where appropriate, the identification of acceptable limits of development phased in over time.
169. The Panel considers that it is appropriate for the plan to provide guidance on the consideration of cumulative adverse effects on the ONFLs and landscapes with high amenity

<sup>99</sup> KCSRA, Andrew Caddie Evidence, paragraphs 5.1-5.14.

<sup>100</sup> AQNZ and MFA, Counsel Submissions, paragraph 92. MPI, Michael Nielson Evidence, paragraph 9.1

<sup>101</sup> S42A Report (Dale), page 65.

value. It is important to recognise that incremental change over time can cause landscape change.

### Decision

170. New Policy 7.2.x be added as follows:

Policy 7.2.X – In assessing the cumulative effects of activities on outstanding natural features and outstanding natural landscapes, and landscapes with high amenity values, consideration shall be given to:

(a) the effect of allowing more of the same or similar activity;

(b) the result of allowing more of a particular effect, whether from the same activity or from other activities causing the same or similar effect; and

(c) the combined effects from all activities in the locality.

Although individual activities may not adversely affect the values that contribute to landscapes, when combined with the effects of similar activities or other activities with similar effects, the activities may collectively have cumulative adverse effects on those values. This Policy describes how the cumulative effects of activities on landscapes will be considered.

## Rules

### Standard 4.3.13.6

**There must be no excavation in excess of 500m<sup>3</sup> per Computer Register located within the Marlborough Sounds Outstanding Natural Feature and Landscape within any 12 month period.**

### Standard 4.3.15.5

**There must be no filling in excess of 500m<sup>3</sup> per Computer Register located within the Marlborough Sounds Outstanding Natural Feature and Landscape within any 12 month period.**

171. Pitapisces owns and farms two properties within Port Hardy being located on opposite sides of the bay.<sup>102</sup> Nile Head Station, 629 hectares in size, is located on the western side of Port Hardy, while Waiua Station is 259 hectares and is on the eastern side.<sup>103</sup> The planning witness for Pitapisces detailed the considerable upgrade that has occurred on Nile Head Station since it was first purchased in 2012, and how the company is investing significantly into the farming operation with the objective of making them productive units in the years to come.

<sup>102</sup> Pitapisces Enterprises Ltd (1245.3), Mark Lile Evidence, paragraphs 6-13.

<sup>103</sup> Figure 1: two properties owned by Pitapisces Ltd.



172. Pitapisces seeks to amend the rule to increase the 500m<sup>3</sup> threshold for earthworks and/or allow for the creation of new farm tracks to allow property owners to develop their farms.

#### **Section 42A Report**

173. The Section 42A Report (Dale) identifies that ‘the 500 m<sup>3</sup> threshold for earthworks above this scale has the potential to affect landscape values, especially when those earthworks result in:
- exposed and cut surfaces which contrast with surrounding vegetation and the natural contour;*
- straight/sharp lines which contrast with a more rounded topography;*
- cuttings on steep slopes which are prone to erosion and lead to unnatural patterns that amplify excessing scarring;*
- an increased 1000 m<sup>3</sup> threshold for earthworks on properties greater than 1000 hectares would have the potential to result in adverse effects on landscape values;*
- unrestricted ability to allow for the creation of new farm breaks could also result in adverse effects.*<sup>104</sup>

#### **Consideration**

174. The Panel queried whether the limitations of 10 m<sup>2</sup> and 500 m<sup>3</sup> for excavations and culverting were too limiting for farm development on this island. Our considered response is that Pitapisces’ proposals for development are the exception to the general widespread trend in Marlborough of decreasing pastoral farming activities in the Sounds. This is because of economic pressures and the consequent reduction in vegetation clearance as widespread natural cover has regenerated.
175. The potential impacts of potential sediment run-off from major vegetation clearance and excavation activities from farm tracks and culverts are considered sufficiently concerning to require stringent controls. General Rules 2.2.7 and 2.12.4 provide sufficiently for culvert installation and maintenance as permitted activities subject to reasonable standards. It is preferable for exceptions like the scale of this potential vegetation clearance and land disturbance activity in steep country to be dealt with by resource consent proposals involving farm development and management plans.

#### **Decision**

176. The submission is rejected for the reasons given in the consideration.

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<sup>104</sup> Pitapisces (1245.3, .4), Mark Lile Evidence, paragraph 27.

## Volume 3 Appendix 1 and Volume 4 Landscape Overlays

### Landscape characteristics

177. All landscape expert witnesses presented a series of exceptional photographs illustrating:
- the serrated series of ridgelines of the many Sounds (many of them taken from the air)
  - the drowned river valley system geomorphology
  - the seas, waters and interrelated landscapes and islands
  - the marine farms in their landscape/seascape settings
  - headlands nesting like splayed fingers into seascapes
  - the varying scale of the modifications, be they pastoral farmlands, plantations, roads and tracks, housing peppering the extensive landscapes
  - the open waters of Cook Strait<sup>105</sup>
- all contributing to the iconic overall landscape of the Marlborough Sounds.
178. Also presented from MPI were spatial intelligence maps illustrating existing marine farm boundaries in outstanding areas of Marlborough; others with consented marine farm boundaries and overlaps with outstanding areas, and other sketches illustrating inshore areas of dredging and trawling throughout the Sounds.<sup>106</sup>
179. Evidence by expert landscape witnesses Dr Steven for FNHTB, and John Hudson and Sophie Gilchrist for MFA and AQNZ raised concerns during the hearing that the one landscape utilised for the purposes of the preparation of the Overlay Map series for ONF and ONL maps in Volume 4 PMEP could not in reality meet the description of a ‘landscape’ as the term is commonly used or understood. All the ONFLs on the overlay maps in the Outer Sounds area were treated as one landscape depicted on Map 1 Appendix 1, Volume 3, as ‘Extent of the Outer Sounds’. Similar concerns related to the landscape depicted in Map 4 Appendix 1 as one entity described as the ‘Marlborough Sounds Coastal Landscape’.<sup>107</sup>
180. In the notified plan at Volume 3, Appendix 1, Map 2 the Sounds have been divided into 18 landscapes. Mr Hudson asserts that one of the major problems with the PMEP is that 18

<sup>105</sup> James Bentley (PMEP Landscape Mapping Recommendations, 2017); John Hudson (Commentary (Evidence) and figures (some of them photographs); Sophie Gilchrist (Appendices – legends, figures, photographs, pages 1-47.

<sup>106</sup> MPI, Michael Nielson, Oral Evidence, 26 February 2018.

<sup>107</sup> Hearing Panel Minute 9, 1 March 2018, page 1.

mapped landscapes are so large and cover such diverse areas that their accompanying characterisation is too general to be useful.<sup>108</sup>

181. By way of example, he focused on the area referred to as Landscape 13 which is described under the title of 'Mt Stokes and surrounds'.<sup>109</sup> After focusing on one landscape map (Landscape 13), Mr Hudson made the point that it was impossible, in visual terms for particular landscape appreciation to be made from that map as to the various visual landscapes contained within it. Landscape 13 includes a very wide catchment over various bays which were in effect separated from each other by a range of landforms spread over many kilometres.
182. The Panel noted that Landscape 13 (Mt Stokes and surrounds) also encompasses parts of the area depicted and described as the 'Extent of the Outer Sounds' on Map 1 Appendix 1, and also points at what is described as the Inner Sounds in the Section 42A Report (Bentley) – being the balance of the Sounds areas outside the Outer Sounds.<sup>110</sup>
183. Dr Steven raised similar concerns of the landscape approach under the ONL and ONC maps in addition to other methodological criteria. Sophie Gilchrist identified practical problems both identifying the outstanding landscapes and natural features at particular locations, and linking these with the particular values intended to be protected on the ONFL maps.
184. Mr Hudson identified that one possible solution to the impasse would be to utilise the approach of the 'visual landscape' division provided in the Marlborough Sounds Landscape Study 2009 by BML and MDC with Appendix 1 Map 1 retained as suggested in the evidence as an example in order to relate to each section within the Appendix.<sup>111</sup>

### **Consideration**

185. The Panel queried whether the overlay ONL maps should show a differentiation between the ONFs and ONL. It was decided that that does not assist in landscape terms but the text of Appendix 1 needs amendment to identify that issue.
186. In the Reply to Evidence and Response to Minute 9 of the MEP Hearing Panel, it was indicated that the values identified within Appendix 1 of Volume 3 PMEP could reasonably easily be

<sup>108</sup> AQNZ and MFA. Hudson, Evidence, paragraph 32.

<sup>109</sup> Appendix 1, Volume 3, pages 13-14.

<sup>110</sup> Appendix 1 Map 2 Volume 3, page 29: MFA, AQNZ, John Hudson Evidence, page 2

<sup>111</sup> Landscape 13 covers Port Gore, part of Guards Bay and part of Queen Charlotte Sound in the Outer Sounds and part of Kenepuru Sound and Beatrix Bay in the Inner Sounds as well as terrestrial areas.

reorganised to reflect nested landscapes if the Panel was of a mind to consider this revised mapping approach.<sup>112</sup>

187. At the conclusion of the first hearing on landscape matters, a series of Minutes and Memoranda in Reply were exchanged between the Panel and the Landscape report writer.<sup>113</sup> These addressed the issue of nested landscapes which had been put forward over a period of time at the end of the first hearing. These nested landscapes had their genesis in the catchment approach of the Section 42A Report (Bentley) the earlier 2009 landscape study mentioned by Mr Hudson.
188. In response to Minute 15 of the MEP Hearing Panel concerning landscape and natural character mapping overlays and values, the Panel received the content of the amended Appendix 1 on 4 July 2018, and adopted its recommendations subject to other changes made in the record. As part of the restructuring process the content of the appendix clearly differentiated between features and landscapes.<sup>114</sup>
189. The Panel has considered the memorandum provided by Mr Bentley in response to Minute 15, including the re-organised content of Appendix 1 attached to the memorandum. Having done so, the Panel believes that Mr Bentley has undertaken a comprehensive, appropriate and easily understandable re-organisation of the Appendix content. For these reasons, the Panel adopts the material attached to the memorandum and this is to replace the notified form of Appendix 1.
190. However, it is important to recognise that decisions made on other submissions to the Appendix influence the specific content of the appendix.
191. The Memorandum in response received on 4 July 2018 indicates there is a need to revisit Maps 1-4. Further, Appendix 1 Maps 2, 3, 4 are inconsistent with Policy 7.1.4.
192. The Panel queried whether the headings utilised for maps in Appendix 1 are accurate or fit for purpose, and concluded they required amendment. Minute 15 requested that the content of Appendix 1 be reorganised to a visual catchment approach. The Memorandum in reply from the report writer acknowledged there is a need to correct Maps 1-4.

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<sup>112</sup> Marlborough Environment Plan and Responses to Minutes 8 and 9 concerning Landscape and Natural Character Mapping, Overlays and Values, 14 March 2018. Memorandum Evidence. Map attached 'Nested Landscapes within Inner and Outer Sounds', 14 March 2018.

<sup>113</sup> **Minutes:** 8 Site Visit Requests – Levide Capital Ltd and Vallyn and Diana Wadsworth 1 March 2018; 9 Request for Further Information 1 March 2018; 15 Request for Alternative Mapping Nested Landscapes 16 April 2018; 36 Request for clarification of Alternate Mapping 2 October 2018; 47 Request for Key Values Column 12 December 2018. **Memoranda:** Response to Minutes 8 and 9, 14 March 2018; Response to Minute 15, 2 July 2018; Response to Minute 36 2 November 2018.

<sup>114</sup> Memorandum in Reply, 2 July 2018.

193. The headings for Maps 2 and 3 need to change if not intended to show ‘landscapes’ as the report writer identified was the case. The same issue applies to the Map 4 heading for both A Marlborough Sounds Coastal Landscape and B Wairau Dry Hills Landscape.

194. Each map is showing areas where there will be areas of high amenity and outstanding natural features and landscapes. Policy 7.1.4 specifically refers to the fact while the explanation reinforces the fact:

*For those landscapes identified as having high amenity value, only landscapes that are more sensitive to change have been identified. The two specific areas considered sensitive to change are the Marlborough Sounds Coastal Landscape and the Wairau Dry Hills Landscape.*

195. Each map heading needs to state instead something like ‘Natural Features and Landscapes of High Amenity for Marlborough Sounds’ or ‘Wairau Dry Hills High Amenity Areas’. The description of the heading in some of the items 1-27 in Appendix 1 may also need reconsideration as at the moment item 1 for example states only ‘Outer Sounds Landscape’. The heading for areas A and B at pages App 1-27 and App 1-28 of Appendix 1 is ‘Areas with high amenity landscape values’ with each of A and B being described as Landscapes but A, for example, ends by saying in the Overview box ‘Within this Coastal Landscape there are ONLs and ONFs’.

### **Decision**

196. The Panel adopts the content of the response to the Panel’s Minute 15 which also results in the following map amendments in Appendix 1:

- Replace Appendix 1 Map 2 with the map of Nested Landscapes within Inner and Outer Sounds and ONFL attached to the response to Minute 15.
- Headings for identified landscapes within that nested landscape map reflect a visual catchment approach and appear at page 1 of the response to Minute 15.
- Each individual description of those landscapes indicates the location of high amenity and outstanding natural features and landscapes.
- The legend for Map 3 is amended to read ‘Identified areas of southern Marlborough’.
- The same issue applies to Map 4 where the legend is amended to differentiate Appendix 1A Marlborough Sounds High Amenity Landscape and Appendix 1B Wairau Dry Hills High Amenity Landscape.

### Marine farms – the ‘cookie cutter’ approach

197. Numerous submitters concerned with the retention of marine farms within ONF, ONL and High Amenity Landscape seek amongst others: the level of mapping of ONF, ONL in the vicinity of mussel farms be removed, or request a relief that aquaculture does not affect underlying values;<sup>115</sup> a review of the mapped areas against the various policies in the PMEP and that the wording in the values be similar to those listed in Auckland, Northland and Bay of Plenty’s regional plans – they query the fact that the Marlborough Sounds is an ONL in a national sense, and comment on the mapping extent of Marlborough’s ONLs on the other;<sup>116</sup> the criticisms and recommendations of Dr Steven be fully recognised and the PMEP should be amended accordingly – also that the overlay be increased with the extension of the ONL seascape to be at least 750 metres from MHWS;<sup>117</sup> that the landscape overlays cannot be evaluated without the notified coastal marine farming provisions and marine farming zoning maps for coastal Marlborough – the whole of the PMEP is interrelated and one part cannot be considered without the other;<sup>118</sup> the removal of commercial forests from the High Amenity Value Landscape in Marlborough Sounds Landscape;<sup>119</sup> withdrawal of the layer of ONL from the PMEP.<sup>120</sup> Several submitters consider that where there is an existing salmon farm, include the express statement ‘some bays contain existing salmon farms, but this does not compromise current natural values’.<sup>121</sup>

#### Section 42A Report (Bentley)

198. The report writer specifically addresses marine farm issues. He addresses the ‘cookie cutter approach’ to landscape issues, a factor addressed by Mr Hudson, and why some of the farms have been cut out of the ONF/ONL.
199. The ‘cookie cutter approach’ is recommended for rejection by the report writer given how he assessed landscapes in the Sounds. Rather, where areas or clusters of modification were concentrated in certain areas, it was deemed through the mapping evidence, that the marine farming production areas should be excluded. No specific modification was singled out or took a bias over the other, with each area assessed on its merits.
200. The report writer identifies many mussel farms were granted consent prior to the RMA; and therefore lacked the effects assessment process now considered under the legislation. To

<sup>115</sup> Murray Waghorn (490.3, .4), Helen Johnson (513.8), John Wilson (839.7-.18), Lewis Wilson (903.17, .18).

<sup>116</sup> MFA (401.244), Aquaculture NZ (401.261).

<sup>117</sup> FNHTB (716.205).

<sup>118</sup> Kroon, Hanneke and Jansen, Joop (808.5).

<sup>119</sup> MFIA (962.52, .55).

<sup>120</sup> Sanford (1140.90-.100).

<sup>121</sup> Multiple submitters (218, 544, 750, 764, 842, 874, 890, 997, 1150, 1160).

isolate marine farms generally from other developed modifications such as jetties, moorings, dams in the seascapes and houses, forestry tracks, power lines in the terrestrial landscapes, does not, in the report writer writer's recommendation, create good resource management outcomes. It is how these modifications read as one, interact with each other or how they are collectively appreciated in the landscape that is important. Singling out one type of development is wrong. Meanwhile, large parts of the Sounds retain marine farming and are not part of ONF/ONL mapping.<sup>122</sup>

### Consideration

201. The Panel questioned whether existing farms should be regarded as part of an outstanding seascape or landscape, or must they be regarded as modifying the quality of a seascape or landscape as outstanding to such a degree that they may no longer be so in particular locations.
202. The report writer in his response considers the effects on ONFLs are a question of scale, viewing range and landscape value. Ms Gilchrist added a number of other factors, including the scale of other modifications in the landscape.<sup>123</sup>
203. The Panel agrees it depends on the factors of the particular landscapes and scale of the built infrastructure it has to accommodate.
204. At Whangatoetoe Bay, Port Underwood for example it is the geologic form of the peninsula that provides the landscape characteristic unaffected by the existing landcover and adjacent marine farms, that is, it is a case of landscape landform rather than land/seascape cover.
205. The Court of Appeal decision *Man O' War* identified earlier points to the validity of retaining and encompassing some existing uses within an ONL instead of deleting them. This follows the *King Salmon* Supreme Court decision which makes it clear that what is being protected is the issue.<sup>124</sup>
206. An issue for the Panel was whether it was appropriate to leave the Landscape chapter relating to aquaculture to await the release of the aquaculture component.
207. We concluded that compliance with the RMA and NZCPS provisions (s 6(b) RMA and NZCPS Policy 15) on landscape issues requires they are addressed here. We defer answering the question of whether it is appropriate to include other provisions protecting renewal rights of existing scale and intensity for the new aquaculture chapter as well as marine farm overlaps

<sup>122</sup> S42A Report (Bentley), Reply to Evidence, pages 8, 15-16.

<sup>123</sup> S42A Report (Bentley), page 42. Aquaculture Industry, Sophie Gilchrist Evidence, paragraphs 5.15-5.16.

<sup>124</sup> *Man O War Station Limited v Auckland Council* [2017] NZCA [24].

with outstanding natural landscape. Renewals depend on spatial allocation and status of renewal activity.

208. The provisions of the proposed NES for Marine Aquaculture seek to clearly delineate exactly which marine farms require an assessment of the adverse effects on the values and factors that make an area outstanding when applying for a replacement consent. It does this by applying as a matter of discretion only to farms located within an identified ONF and ONL within which there are 70 existing farms currently located.<sup>125</sup>

209. A number of considerations arose in the evidence of the witness for MPI which the Panel found helpful to identify two here:

*Is there a need for a new policy addressing cumulative effects on landscapes? Could this be resolved by way of a spatial plan?*

*Obviate the need for consenting on a site by site basis.*<sup>126</sup>

210. The issue of cumulative effects and the possibility of spatial plan requires addressing by way of a plan change or the new aquaculture chapter if the parties see this as a way forward. We have addressed this above.

211. In terms of consenting on a site by site basis, several of the landscape architects, namely James Bentley and John Hudson, as does the Panel, see the nested catchments method as a solution by which to address this issue. The detail provided in the amendments to Landscape and the unscrambling of some of the concepts outlined in the Section 42A Report (Bentley) should assist. All of the landscape architects in their assessments and amendments were very clear in seeking to avoid consenting of future marine farms on a case by case basis if that could be avoided.

212. Ms Gilchrist included a number of factors that can be considered in relation to determining mussel farming in relation to amenity values. These are worth assessing in any application for marine farm consents.<sup>127</sup>

### **Decision**

213. The Panel has decided no amendments to the Plan are required in respect of this issue. The mapping provided in the Section 42A Report (Bentley) reinforced the opinion the Panel arrived

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<sup>125</sup> Ibid.

<sup>126</sup> MPI, Michael Nielson, Evidence, paragraphs 4.1-4.5.

<sup>127</sup> Proposed National Environmental Standard for Marine Aquaculture Discussion Document, June 2017, page 29.



at in assessing whether there had been no deliberate ‘cookie cutting’ to separate out marine farms from the seascape/landscape/natural feature interface.

### **Landscape Overlays**

214. The landscape overlays are confusing. The submissions seek to make overlays sharper and clearer and at a larger scale.<sup>128</sup> This prompted requests to the Section 42A Report writer, Mr Bentley, identified in Panel Minutes 8 and 9.
215. The Marlborough Sounds Coastal Landscape applies to urban zonings to which no landscape provisions apply.<sup>129</sup> The report writer recommends removal of the coastal overlay from the urban zonings.<sup>130</sup>
216. The legend to Landscape Overlay incorrectly includes the references ‘Marlborough Sounds Coastal Landscape’ and ‘Wairau Dry Hills Landscape’ for the s 7 RMA Amenity Landscapes.

### **Decision**

217. The phrases ‘Marlborough Sounds Coastal Landscape’ and ‘Wairau Dry Hills Landscape’ in the legend to the Landscape overlay maps are amended to ‘Marlborough Sounds High Amenity Landscape’ and ‘Wairau Dry Hills High Amenity Landscape’, consistent with other previous decisions of the Panel.
218. The Marlborough Sounds High Amenity Landscape is removed from urban zonings.

### **Landscape Area 6 : Maud Island, Mt Shewell, Fitzroy Bay and Eastern Tawhitinui Reach**

#### **Sub area 4: Mt Shewell, Apuau Channel, Treble Tree and Yellow Cliffs, and Maud Island area<sup>131</sup>**

219. Several submitters seek: the overlay is removed from the vicinity of marine farm 8181 and 8179 in Picnic Bay, or record that aquaculture will not affect relevant values;<sup>132</sup> the ONL include the coastal marine area within 300 metres of Maud Island, include the whole of Apuau Channel between Buckland Bay and Treble Tree Point, to connect Mount Shewell Reserve and Treble Tree Peninsula with Maud Island;<sup>133</sup> remove the ONL overlay from Reef Point/Yellow Cliffs or record that aquaculture will not affect the relevant values;<sup>134</sup> remove the northern extent of the ONL overlay from the ridgeline above Waiona Bay.<sup>135</sup>

<sup>128</sup> S42A Report (Bentley), pages 18-21.

<sup>129</sup> S42A Report (Bentley), pages 11-15.

<sup>130</sup> S42A Report (Bentley), page 15.

<sup>131</sup> Sub-areas as defined in the Section 42A Report (Bentley) page 27

<sup>132</sup> Christopher Peter Womersley (626.4, .5, .6).

<sup>133</sup> FNHTB (716.206-.201).

<sup>134</sup> Goulding Trustees Limited (750.6-.8).

<sup>135</sup> United Fisheries Holdings Limited (1204.4).

### Section 42A Report

220. The report writer re-examined FNHTB's submissions around and including the Apuau Channel as an ONF/ONL and increasing the coastal water overlay around Maud Island.
221. One of the matters preventing Apuau Channel being considered an ONL/ONF originally was the level of trawling and dredging occurring in the area. But from a landscape perspective, the report writer considers there is a close relationship between the ONF/ONL landform of Maud Island and the ONL/ONF mainland (Waiona Bay area). The narrow, un-modified waterway of Apuau Channel assists in defining these areas. Each area retains high or very levels of natural character (with Maud Island being considered to hold outstanding natural character). Modification is minimal in this area. The report writer agrees with FNHTB that the high levels of naturalness experienced on the water's surface, coupled with the extremely high legibility and aesthetic values of the adjacent landforms and ridgelines, mean that Apuau Channel should be included as an intrinsic part of this ONL/ONF overlay.
222. An extension to the seascape around Maud Island is also reported to be appropriate, despite the dredging and trawling; the seascape around Maud Island is inextricably linked to the island's values, and recognition of these values of this indented landform would be appropriately acknowledged if the mapping were to extend out to 300 metres.<sup>136</sup>

### Consideration

223. Mapping Recommendations Figure B: Landscape Mapping Changes 2: Maud Island and Apuau Channel prepared for MDC illustrates the extent of the unmapped area recommended to be included as an ONF/ONL. This demonstrates no marine farms within the suggested area touching on a headland. There are three marine farms in the next bay to the west and the proposal does not impinge on these.
224. The report writer's recommendation is to re-map the seascape of Apuau Channel as an ONL/ONF, and to increase the mapped extent of sea around Maud Island to 300 metres to better reflect the seascape qualities associated with this island. Refer to Figure B: Landscape Mapping Change 2: Maud Island and Apuau Channel. Additions are also required with respect to the values table that underpins the mapped extent.
225. The Panel finds that there is no need to reduce the extent of the ONL overlay as it does not affect the marine farms identified by the submitter.

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<sup>136</sup> S42A Report (Bentley), page 29.

### Decision

226. The Panel accepts Figure B of Landscape Mapping Changes of Mr Bentley's Landscape Mapping Recommendations Report, dated 20 November 2017, as an amendment to Map 4 of the landscape overlays in the PMEP.

### High amenity landscapes

227. Federated Farmers<sup>137</sup> challenged the use of high amenity landscapes and sought their deletion because it was asserted they would cause unnecessary restrictions on activities over and above what the RMA requires.

### Section 42A Report

228. The report writer provided a commentary of what 'High Amenity Landscapes and Features (HALF)' actually described. Essentially, they recognise the need to manage particular parts of Marlborough that are highly valued with high levels of amenity throughout, but 'fall short of reaching the threshold of being outstanding ... due to extensive modifications...'
229. Features and landscapes that do not meet the criteria for outstanding can nonetheless be required to be 'maintained and enhanced' either as amenity values in s 7(c) RMA or as part of the wider environment under s 7(f).
230. The report writer supports the retention of HALF and the geographical extent shown in the Mapping Overlays but without the cross-hatching which creates visual noise and should be simplified.<sup>138</sup>

### Consideration

231. The Panel agrees, for the above reasons, with the report writer's recommendations.

### Decision

232. The decision is to retain the high amenity landscapes within the PMEP with the mapping delineation on a separate series of maps to the ONFLs.

### Wither Hills (Wairau Dry Hills) landscapes

233. The Section 42A Report identifies that these landscapes have been identified for their contrasting form, colour and appearance (and lack of structure) to the Wairau Plains and Blenheim township, and they are predominantly identified and mapped through their visual catchments and land-based modifications. The report writer made the following observations:

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<sup>137</sup> Evidence of Darryl Sycamore

<sup>138</sup> S42A Report (Bentley) 4 High Amenity Landscape, page 13.

*The principal landscape values of the Southern Hills lie in their aesthetic values, where the hills act as an important visual backdrop to Blenheim and contrast with the varied land uses across the plains. They hold characteristic qualities that contribute to the visual appreciation of the area. The Wither Hills (including the wider Southern Hills) provide topographical relief to the flat Wairau plains and provide a high level of visual coherence due to their prominent and mostly unencumbered nature from buildings and noticeably 'clean' ridges and spurs.*

*The Wairau River marks the geological boundary between the harder geology to the north (the Richmond Ranges) and the softer geology to the south. Erosion by rivers and tectonic activity has moulded the Southern Hills to a low elevation. Due to this, the southern hills that front the Wairau Plain are highly legible. ...<sup>139</sup>*

234. During the hearing in November 2018 two landowners who own property in this landscape contained within the high amenity landscape feature (HALF) mapped overlay gave evidence.<sup>140</sup> They queried whether the landscape was accurately mapped or whether their properties served a practical purpose in protecting views of the Wairau Dry Hills landscape.

#### **The Levide Capital Ltd property**

235. Part of the Levide property is identified as holding high landscape values that contribute towards the mapped area of the HALF. The property is located at the eastern extent of the Wither Hills, and includes part of the 15th, 16th and 17th valleys, which themselves are an important part of the Wither Hills. Adjacent to part of this is SH1 and the railway. SH1 extends southwards towards Weld Pass and further northwards towards the Wairau Plains and Blenheim. The railway line also comes close to the property, aligning with SH1 at the head of the 17th valley.
236. Due to the size of the property and the inclusion of three different valleys, variances in character had been noted, however the hills nonetheless were seen as providing topographic relief from the Wairau Plains and Wairau Lagoons and also assisting in providing an entrance to the Wairau Valley when travelling northwards (from Weld Pass). Rocky peaks, areas of pine forestry and intensive land uses all have an influence on the aesthetics of the hills.
237. The extent of the mapped area on the property broadly follows a contour approach and to some extent a visual catchment approach for some of the minor spurs. This contour approach

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<sup>139</sup> S42A Report (Bentley). Marlborough Environment Plan, Response to Minutes 8 and 9 covering Landscape and Natural Character Matters, Overlays and Values, 14 March 2018, page 4.

<sup>140</sup> Levide Capital Ltd (907.32), Vallyn and Diana Wadsworth (201.2).

was used as a mapping approach for much of the Southern Hills overlay, however, where human interventions have prevented this, land use has been a mapping indicator.

#### **Section 42A Report**

238. The report writer offered to visit the property, and after an exchange of Panel minutes and agreement with the landowners, he advised he was able to visit the property on 2 March 2018, confirming that whilst parts of the property are visible from the state highway (and railway), not all of it is. He recommended some refinement to the mapped area would better define those areas that are visible.
239. This exercise refined the mapping around 15th, 16th and 17th valleys. A series of maps to portray what parts of the Southern Hills overlay are to be removed was provided.
240. The report writer recommended the following detailed amendments. His text in full is identified here:

*1. 15th Valley: To refine the mapping around the valley floor and lower slopes of the 15th Valley. This is due to the modifications currently present on the valley floor (including vineyards and industrial buildings close to SH1). The proposed mapping method is to follow a contour line and gradually 'step-it-up' as the contours increase in elevation as the valley extends westwards.*

*2. To retain the mid and upper parts of the north-facing slopes southern slope as this area is visible from parts of SH1. I have carefully tried to exclude the smaller 'backside' ridges at the head of the valley where oblique views would not gain sight of these areas.*

*3. 16th Valley: I have excluded the area of hillside closest to SH1 and the railway line that is currently covered with pine trees. I do not consider that this part of the valley positively contributes to the values that is being captured by the overlay.*

*4. I have reviewed the remainder of the 16th Valley and consider that some small amendments could occur to the mapped area at the head of the valley, however consider that the remainder reflects the visibility well of this part of the valley.*

*5. 17th Valley: I have removed two large parts of the overlay in this valley, principally due to the modifications of existing pine forestry and that parts cannot be seen from the highway. These areas include southern-facing hill containing the pine forestry close to*

*the state highway and the westward extent of the mapped area. A further smaller area has been removed within the middle of these two areas.*<sup>141</sup>

### **Consideration**

241. Having itself visited the site the Panel agreed with the observations of the report writer recorded above.

### **Decision**

242. Landscapes map 8 is amended to accord with Figure 1 attached to the report writer's response of 14 March 2018.

### **Southern Hills property: Vallyn and Diana Wadsworth**

243. The same response by the Section 42A Report writer (Bentley) sets out a similar description of the area as it did in response in the first few paragraphs to the submission of Levide Capital. A further paragraph indicates the difference between the two properties:

*Through this exercise, part of the property was identified as holding high landscape values that contributed towards the mapped area of the HALF. [The] property is located at the southern part of the third most 'easterly' ridge that extends into the Wairau plains. This small broken ridgeline divides Brancott and Paynters Roads (and valleys). The extent of the mapped area on the property follows a contour line. This contour approach has been used as a mapping approach for much of the Southern Hills overlay, however, where cultural interventions have prevented this, land use has been a mapping indicator.*

244. On his site visit, also on 2 March 2018, the report writer agreed with Mr and Wadsworth that their property is not visible in the broader landscape and the mapped area cannot be seen from any local public road. The particular easterly ridge is lower than the other two ridges that extend into the Wairau Plains and is less defined.
245. In addition, human interventions have encroached sufficiently on the easterly ridge to a degree where the very values that have been identified for the broader Southern Hills are difficult to identify. The values on this ridge are not as strong as the two to the west. The writer recommended in his response dated 14 March 2018 a change in the contours represented.<sup>142</sup>

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<sup>141</sup> Response to Minutes 8 and 9 concerning Landscape and Natural Character Mapping, Overlays and Values, 14 March 2018, pages 4 and 5.

<sup>142</sup> MDC Marlborough Environment Plan: Response to Minutes 8 and 9 concerning Landscape and Natural Character Mapping, Overlays and Values, 14 March 2018, page 6.

### **Decision**

246. Landscapes map 8 is amended to accord with Figure 2 attached to the report writer's response of 14 March 2018.

### **Wither Hills as an outstanding natural landscape (ONL)**

247. Royal Forest and Bird requests that the Wairau Dry Hills landscape should be an ONL.<sup>143</sup>

### **Section 42A Report**

248. The Section 42A Report identifies that in the assessment of the Marlborough Landscape Study the Wairau Dry Hills are too modified to be included as an ONL. While the hills form an important visual backdrop to the Wairau Plains and Blenheim, and are noted for their topographical and land use adjacent to the plains, 'they are sufficiently modified that they fall short of the outstanding threshold'.<sup>144</sup> Nonetheless, they are assessed as holding important visual attributes which is why they are identified as a high amenity landscape but not an ONL/ONF.
249. The recommendation is to retain the Wither Hills as a high amenity landscape.

### **Consideration**

250. The Panel confirmed the evidence of the report writer after a site visit which confirmed all the area's attributes as set out in the Section 42A Report.

### **Decision**

251. The Wither Hills is retained as a high amenity landscape and the submission is rejected.

### **Other issues related to the Wairau Dry Hills Landscape Overlay**

252. Rule 3.3.10 relates to conservation planting, carbon sequestration and forestry planting (permanent).
253. Standard 3.3.10.1 identifies 'There be no planting within the Dry Hills landscape'.
254. Woodlot forestry up to 2 ha and farming for the purposes of horticulture is permitted in the Wairau Dry Hills Landscape which would lead to degradation of values but no scope exists within submissions to change these provisions.
255. Submitters seek to amend the rule to allow conservation plantings including exotic species in the Wairau Dry Hills Landscape.

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<sup>143</sup> Forest and Bird (715.426, .427).

<sup>144</sup> Section 42A Report, Reply to Evidence, page 24.

**Section 42A Report (Dale)**

256. The Section 42A Report identifies that indigenous vegetation makes up part of the inherent values of landscape and should be enabled for conservation planting and certain sequestration planting.<sup>145</sup>
257. The report writer also refers to Rule 8.3.9.3 restricts the planting of indigenous species as part of conservation planting in the Rural Living Zone. The restriction on conservation planting within the Wairau Dry Hills recognises the open grasslands of the hills are sensitive to change and that exotic species planting could affect their distinctive colour and open values unencumbered by modification through unnatural vegetation patterns.
258. Accordingly, the report writer considers it is appropriate to permit conservation planting with indigenous species within the Wairau Dry Hills Landscape, and changes to the relevant rules are recommended accordingly.

**Consideration**

259. We queried whether conservation planting should be allowed and concluded that it should be provided in view of the report writer's findings, but of indigenous plantings only. The Panel further queried if existing houses and their associated amenities and/or conservation planting might impact on the values the PMP seeks to be protected. After considerable discussion, and accounting for the fact that some residential areas already exist which include household lawns, hedges and gardens, we concluded that plantings in curtilage of a dwelling should be excluded.

**Decision**

260. For the reasons given, Rules 3.3.10.4 and 8.3.9.3 are amended to read:
- ~~There must be no planting~~ Only indigenous species may be planted within the Wairau Dry Hills Landscape, except for plantings within a curtilage around a dwelling.
261. Rule 19.3.2.3 is amended to read:
- ~~There must be no planting~~ Only indigenous species may be planted within the Wairau Dry Hills Landscape.
262. Otherwise the submissions are rejected.

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<sup>145</sup> S42A Report (Dale), page 76; Reply to Evidence, page 3. Vallyn and Dianne Wadsworth.