

Proposed Marlborough Environment Plan

Hearing

28 February 2018

Block 2 - Topic 5

Natural Character and Landscape

Presentation from

**Kenepuru and Central Sounds Residents' Association and
Clova Bay Residents' Association**

Presentation to MEP Hearing Panel re Block 2 Topic 5

Introduction

1. On behalf of the Kenepuru and Central Sounds Residents' Association (**KCSRA**) and the Clova Bay Residents' Association (CBRA) (**Associations**) I would like to thank the hearing panel for the opportunity to talk to aspects of the Association's submissions on the Proposed Marlborough Environment Plan (MEP) and our subsequent further submissions as it concerns the above topics.
2. My name is Andrew Caddie and I am the Vice President of KCSRA. For ease of administration and efficiency the Associations divided their response to aspects of the MEP among members and thus prepared and submitted several separate submissions. As I am currently living in Blenheim the Associations have asked me to prepare and present on behalf of the Associations.
3. In terms of my professional background I hold 2 tertiary qualifications - a Bachelor of Forestry Science and a LLB, both from Canterbury University. I was a forester for a number of years with the then NZ Forest Service. Following a period of OE I obtained my LLB and practised law as a commercial solicitor for a number of years at various large National legal firms.
4. Today's session of hearings covers Topic 5 of Block 2 – Natural Character and Landscape. I note the Chair's earlier assurances that panel members will have read the Associations submissions and accordingly we wish to focus on matters arising from the RMA Section 42A reports the Council has had prepared. In this case the Section 42A report prepared by consultant planners Mr James Bentley and Mr Maurice Dale.
5. In Part A we address Mr Bentley's section 42A reports on both Natural Character and Landscape. In Part B we address Mr Dale's section 42A report on Natural Character and in Part C we address Mr Dale's section 42A report on Landscape.

Part A – Mr James Bentley Natural Character and Landscape Section 42A Reports

A1 Landscapes or Features ?

- 1.1 On page 12 of his section 42A report Mr Bentley records that *“The landscape study has taken a very practical decision over the scale of the landscapes for Marlborough. There are numerous ways in which landscapes can be delineated, such as by river catchment, by visual catchment or by more abstract means to name a few. Due to the complexity of the Marlborough Sounds specifically, and for the purposes of capturing relevant values and characteristics of an area, the two areas of the Inner and Outer Sounds were determined each as landscapes.”*
- 1.2 As a result of this, the central and inner sounds only have ‘outstanding natural features’ which are not part of or also an ‘outstanding natural landscape’. This approach renders the central and inner Sounds at significant risk of inappropriate development – notably if the panel adopts the position that the ‘seascape’ can be excluded when assessing the values of a terrestrial ‘feature’ – which is the opinion of some landscape professionals.
- 1.3 We emphasise our objection at the effective alienation of the seascape of the central and inner Sounds from landscape overlays. In our view the approach adopted of treating the inner and outer sounds as a single ‘landscape’, and of consequently not identifying outstanding natural landscapes within the central and inner sounds, does not meet the requirements of section 6(b) of the RMA. It renders large areas, notably seascapes, without the legislative protection required by section 6(b).

A2 Excluding Aquaculture and Forestry Areas from ONL or ONF Overlays

- 2.1 On page 13 Mr Bentley notes *“In many situations, where modifications (such as forestry or aquaculture for example) was found to have a large enough negative effect on the values of the feature to the extent that such areas no longer stood out as being exceptional in the context of the region, these modifications were excluded from the mapping.”*
- 2.2 Mr Bentley appears to rely on the very recent *Matakana Island* decision¹. In our view this decision does *not* address the ‘carving out’ of areas from outstanding landscapes or features at all. The case was about bringing exotic forestry *into* an ONFL. Moreover, his particular reference in the case is to a paragraph² that directs the parties to determine:
- what existing activities on the island *do not affect the values* of the ONFL and so can continue, and
 - what activities might be tolerated if ‘*existing use*’ activities but otherwise not be allowed to continue or to be replicated.
- 2.3 This is a ‘guidance note’ to the parties who were tasked to report back to the Court on implementation of the decision. It is about identifying those activities that *do* and those

¹ *Western Bay of Plenty District Council..... NZEnvC 147 – September 2017.*

² Para 167

that activities that *do not* detract from the values making the area an outstanding landscape. Reference to ‘tolerated’ and ‘existing use’ is presumably focused on the limited structural development on the land as discussed in the case. Some of this might need to be tolerated within the ONL if *existing use* activities (presumably a reference to existing use rights under the likes of section 10 of the RMA). The balance of incongruent activity is not allowed to continue or be replicated (e.g. it cannot be re-consented if it is a regulated activity in the ONL).

2.4 Mr Bentley (*page 13*) goes on to say *“It is considered that the ongoing effects of development in the Sounds will continue to affect the values and breadth of mapping of ONLs and ONFs, however at this point in time, their effect has been taken into account.”*

2.5 The point of this is that there is nothing in the *Matakana* decision, we submit, that mandates the mapping of outstanding areas *around* activities that adversely affect the values of that landscape or feature. Nor does the *Matakana* decision, we submit, condone the continuance of pre-existing regulated activity irrespective of its adverse impacts on landscape values or natural character.

2.6 On page 22 Mr Bentley records: *“Therefore, modifications within the Marlborough Coastal Environment have been taken account of, especially aquaculture and forestry, and their associated effects have dictated whether an area is contained within an overlay or not. As with any form of modification, if areas of modification were not present then the overlay would likely extend further, however the mapping is the result of the modifications present at the time the Coastal Study was undertaken.”*

2.7 We have appended a table of areas (see Appendix 1) where Mr Bentley has specifically acknowledged in his section 42A reports that existing regulated activity has restricted the mapping of natural character or landscape values in the marine environment.

2.8 A particular area of concern to the Associations is Clova Bay. Mr Bentley, at page 53 of his section 42A report, records:

“Both Crail Bay and Clova Bay are recognised areas of Pelorus Sound where aquaculture is present. As a consequence of this, the marine environment of both of these bays is not rated at the Level 4 scale as holding high, very high or outstanding for natural character (however some parts may retain higher levels of natural character at the more refined scale of mapping at Level 5).”

2.9 This highlights an issue with regulated activity in Clova Bay (and other areas per Appendix 1). It is regulated activity in an area that would otherwise, *but for that regulated activity*, hold significantly higher natural character values (or in some areas be an ONF or ONL). As noted, in our view the *Matakana* decision does not condone the ‘tolerance’ or continuation of such regulated activity beyond existing consent rights.

2.10 The CBRA commissioned landscape expert Dr Mike Steven to offer a professional opinion on the effects of regulated marine farming activity on the amenity, landscape and natural character values of Clova Bay. Dr Steven’s opinion is attached to this report. It affirms the view of Mr Bentley that existing regulated marine farming activity in Clova Bay is having a

significant adverse effect on the natural character of the coastal marine area. At a level 5 scale the effects of existing aquaculture development on the Clova Bay Coastal Marine Zone 1 are most acute - rendering this part of the Bay with significant potential for natural character restoration.

- 2.11 This goes directly to the submission points we make below in regards to objectives and policies on *restoration and enhancement* and on *cumulative effects*. As we submit below, the Boffa Miskell reports and Mr Bentley's section 42A reports clearly *identify* areas and opportunities for restoration and enhancement (NZCPS 14) and *identify* areas at risk from cumulative effects (NZCPS 7). It is incumbent on the Marlborough District Council to recognise this and include in the MEP the *required* objectives and policies directed at these restoration and enhancement opportunities and at the management of these cumulative effects.

A3 Dredging and Trawling

- 3.1 On page 19 Mr Bentley notes that he has been provided with new information on dredging and trawling by MPI and Mr Andrew Baxter from DoC which may affect natural character overlays.
- 3.2 Mr Bentley has also referred to dredging when assessing landscape values. We query the degree of relevance of dredging from a landscape assessment perspective. We note that the heavily dredged Guards Bay is recommended as an ONL seascape notwithstanding this (page 41 of Mr Bentley's report. Also see his comments dismissing dredging and trawling effects on page 29 re the Apuau Channel). On the other hand Mr Bentley appears to rely on dredging as a basis for not extending a landscape overlay in relatively lightly dredged areas (see for example Page 31, Kauauroa Bay, Tawhitinui Bay and around Tapapa Point, areas relatively light dredged, if at all, and where the overlay is not even extended to the marine farm structure areas where there is clearly no dredging activity). It can only be the regulated marine farm activity that holds the ONF overlay off these seascapes.
- 3.3 We submit that Mr Bentley's use of this new dredging and trawling information is neither consistent nor appropriate.

Part B – Mr Maurice Dale Natural Character Section 42A Report

B1 Policy 6.1.4 – Identify Areas of High or Above Natural Character

- 1.1 The Associations submitted that this policy should be **extended** (or a new policy added) to require the identification of areas rendered at less than high natural character *due to the effects of regulated activity*. This is in line with NZCPS 14 which requires that regional policy statements identify areas and opportunities for restoration or rehabilitation and include policies, rules and other methods directed at restoration or rehabilitation. It also dovetails with NZCPS 7 which requires regional policy statements and plans to identify coastal processes, resources or values that are under threat or at significant risk from adverse cumulative effects.

- 1.2 This particular submission point appears not to have been addressed by either Mr Dale in his 42A report, nor Mr Bentley in his section 42A report.
- 1.3 We can see no reason for excluding such a policy from the MEP, particularly so in the marine environment where there are obviously some serious issues to grapple with in terms of cumulative natural character effects from marine farming and other coastal marine activities. We refer to both the report of Dr Steven as attached and to Appendix 1 of this submission in this regard.

B2 Objective 6.2 – Preservation of Natural Character

- 2.1 This reads: *Preserve the natural character of the coastal environment, and lakes and rivers and their margins, and protect them from inappropriate subdivision, use and development.*
- 2.2 This objective is intended, we submit, to encompass the requirements of NZCPS 14 – being ‘*Promote restoration or rehabilitation of the natural character of the coastal environment*’ (we say this because the note to Policy 6.2.6, which flows from Objective 6.2, states “*The policy also implements Policy 14 of the NZCPS.*”).
- 2.3 However, as worded Objective 6.2 only goes so far as to *preserve* the natural character of the coastal environment, and lakes and rivers and their margins, and protect them from inappropriate subdivision, use and development. Notably, it does not seek any *restoration or rehabilitation* and as such it does *not* set, we submit, the required framework for the restoration or rehabilitation policies that are required by NZCPS 14.
- 2.4 We note that this serious shortfall in restoration and rehabilitation policies extends through to the Anticipated Environmental Result of Chapter 6 – which is a single outcome (6.AERR.1) and which states “*The natural character of Marlborough’s coastal environment and of lakes, rivers and their margins is retained.*” That is, there is no outcome focused on environmental gains through restoration or rehabilitation of natural character. Mr Dale’s response to this (page 56) is that Chapter 6 “essentially seeks that natural character be retained, with enhancement of natural character instead *only encouraged*”. In our view this is a gross under-representation of the theme and directives of NZCPS 14. By contrast, we note that the sister Objective 7.2 regarding Landscape seeks to “maintain *and enhance* landscapes with high amenity value”.
- 2.5 Accordingly, we submit that Objective 6.2 must be amended to read “Preserve and enhance the natural character of the coastal environment.....”

B3 Policy 6.2.3

- 3.1 This policy reads “*Where natural character is classified as high or very high, avoid any reduction in the degree of natural character of the coastal environment or freshwater bodies.*”
- 3.2 This policy sets an objective standard for what is a ‘significant’ effect – being a reduction in the classification of an area to a lower classification e.g. down from High to Moderate High.

- 3.3 The Associations submitted that there is no policy basis for only applying this policy to areas of High or above natural character. This is because NZCPS 13(b) provides that significant adverse effects on natural character of the coastal environment, whether or not rated as high or above, are to be avoided.
- 3.4 Mr Dale (page 39) rejects this submission on the basis that *'only areas of high natural character or above are mapped by the MEP'* and because the inclusion of areas with less than high natural character would place *'too high a regulatory burden'* on activities in areas which have a lesser degree of naturalness, or have been heavily modified by human intervention.
- 3.5 The Associations do not see how whether or not areas are mapped in the MEP (High or above) is actually relevant. Not being mapped simply signals that an area is assessed as having less than high natural character. It does not mean that natural character of the area is irrelevant. As with areas of high natural character, effects on areas of moderate-high or even moderate natural character can still be significant and thus must also be avoided (NZCPS 13).
- 3.6 The Associations also do not see why including less than high natural character areas in this policy will place *'too high a regulatory burden'* on activities in these areas. By including less than high natural character areas within this policy they will benefit from a more objective standard that will *reduce* uncertainty and thus *reduce* regulatory burden. Moreover, we cannot see how it can be suggested that the policy will place a greater regulatory burden on less than high areas if it does not also do so for high or above areas.
- 3.7 The only rational inference that can be taken from excluding areas of less than high natural character from this policy is that the natural character values of these areas are dispensable. This is clearly, we submit, an inappropriate stance to take.
- 3.8 As an aside, we note that policy 6.2.2, which applies to all coastal areas, prescribes that significant adverse effects in the coastal environment should be avoided and refers to Appendix 4 for 'significance criteria'. Appendix 4 does not provide qualitative or quantitative criteria for significance. Rather it is a list of things to consider when determining significance, such as the character and degree of modification, loss or destruction, the duration, frequency, magnitude, scale or irreversibility of effect and the resilience of the heritage value or place to change. It does not give the objective measure of 'significance' that Policy 6.2.3 does. We note that Policy 6.2.2 applies to high and very high natural character areas as well as to less than high natural character areas so it is clear that Appendix 4 and Policies 6.2.3 are intended to be complimentary, rather than mutually exclusive. That is, we submit, Policy 6.2.2 and Appendix 4 are no basis for excluding less than high natural character areas from the objective standard of significance as given by Policy 6.2.3.

B4 Policy 6.2.4

- 4.1 This Reads *"Where resource consent is required to undertake an activity within coastal or freshwater environments with high, very high or outstanding natural character, regard will*

be had to the potential adverse effects of the proposal on the elements, patterns, processes and experiential qualities that contribute to natural character.”

- 4.2 The Associations submitted that the purpose of this policy is vague and that there is no apparent basis for limiting this policy to only areas of high or above natural character. NZCPS 13 requires that adverse effects be avoided, remedied or mitigated on *all* natural character areas.
- 4.3 Mr Dale (page 40) states that *“broadening its application to all areas of natural character would not align with the management approach in Policies 6.2.1 and 6.2.3 and would not be consistent with section 6(a) of the RMA, or the national policy direction of the NZCPS.”*
- 4.4 This would appear to affirm our fear that for resource consent purposes the intention is to dispense with any consideration of natural character values for areas with anything less than high natural character. That is neither appropriate nor consistent with section 6(a) of the RMA nor NZCPS 13. Further, on our reading Policy 6.2.4 is not just about Policies 6.2.1 and 6.2.3 at all (as inferred by Mr Dale) – it is also about Policy 6.2.2 which requires the avoidance of significant adverse effects on *all* natural character in the coastal environment (i.e. including high or very high natural character, as well as less than high natural character).
- 4.5 In short, if the intention of this policy is to exclude resource consent assessments of natural character values in areas of less than high natural then it is obviously inappropriate. If this is not the intention of the policy then what is its purpose? *At the least* this policy should apply to all natural character areas, not just those rated at high or above.

B5 Policy 6.2.5

- 5.1 This reads *“Recognise that development in parts of the coastal environment and in those rivers and lakes and their margins that have already been modified by past and present resource use activities is less likely to result in adverse effects on natural character.”*
- 5.2 The Associations objected to this policy because:
- *It will conflict with cumulative impact policy. For example, does it mean that all development should be funnelled into an area already developed irrespective of cumulative effects ?*
 - *It will lead to inordinate and inequitable precedent implications. For example, should the introduction of one development into one area render the stakeholders of that particular area the unfortunate bearers of all adverse natural character effects from the future development that this policy would thenceforth shoehorn into that area ?*
 - *Leads to propositions that the plan positively contemplates development in an area simply because it is already carrying a degree of adverse natural character effects.*
- 5.3 On page 43 Mr Dale rejects numerous submissions, including The Associations, to delete this policy and suggests that concerns raised about cumulative effects and frustrating restoration or enhancement objectives are met by the fact that the policy *“does not stand*

alone and must be considered in light of other policies under Objective 6.2” including the cumulative effects policy and policy on enhancing natural character.

5.4 The fact that an area may already be modified is something that must inherently be taken into account when assessing effects. If this is all the policy seeks to achieve then it is simply stating the obvious and is unnecessary specificity. Unfortunately similar policies in the past (such as policy 1.1.1(a) of the old 1994 NZCPS) have been taken as authentication of development and their genesis has not been carried over to the 2010 NZCPS. This proposed policy will undoubtedly be used to the same effect. Like its forebears, the legacy of this policy will start and stop at confusion and, we submit, it should be deleted accordingly.

B6 Policy 6.2.6 – Enhancement of Natural Character

6.1 This reads *“In assessing the appropriateness of subdivision, use or development in coastal or freshwater environments, regard shall be given to the potential to enhance natural character in the area subject to the proposal”*

6.2 It is clear from the explanatory text that ‘enhancement’ is intended to encompass restoration and rehabilitation.

6.3 NZCPS 14 requires that the plan promote the restoration or rehabilitation of the natural character of the coastal environment *including by identifying areas and opportunities for restoration and rehabilitation and/or by prescribing policies rules and other methods directed at restoration or rehabilitation.*

6.4 The Associations have strongly submitted above that there should be a specific policy to *identify* areas in the coastal marine environment in need of restoration or rehabilitation (refer Policy 6.1.4 above).

6.5 The Associations also submitted that Policy 6.2.6 should be clear that refusing to re-consent regulated activities can be adopted as a form of restoration or rehabilitation – e.g. where there are excess cumulative effects from existing regulated activities.

6.6 Mr Dale’s response to this is (page 43) *“... any applications for resource consent renewals must be considered against all of these [other part 6.2] policy requirements, and consent may be declined where these policies overall are not met. Recognising this overall approach, inclusion of a specific reference to declining applications for consent renewals within Policy 6.2.6 is not considered necessary.”*

6.7 Unfortunately a strong inference given by the explanatory note to the policy is that ‘enhancement’ is limited to that as arises through the *granting* of a consent application, not that as might arise through the *declining* of a consent application. It is thus necessary, we submit, to clarify, at the least in the policy note, that in some circumstances enhancement can also arise through *declining* a resource consent application for regulated activities.

6.8 For example, the policy note might state *“Renewal applications might be declined where there is a need for restoration because of a subsisting unacceptable level of cumulative adverse effects from the activity the renewal consent application is for.”*

B7 Policy 6.2.7 – Cumulative Effects

7.1 This reads : *In assessing the cumulative effects of activities on the natural character of the coastal environment, or in or near lakes or rivers, 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 coastal or freshwater environment in the locality”*

7.2 NZCPS 7 (2) reads : *“Identify in regional policy statements, and plans, coastal processes, resources or values that are under threat or at significant risk from adverse cumulative effects. Include provisions in plans to manage these effects. Where practicable, in plans, set thresholds (including zones, standards or targets), or specify acceptable limits to change, to assist in determining when activities causing adverse cumulative effects are to be avoided.”*

7.3 We submit that it is clear that NZCPS 7 is intended to address both potential *and existing* cumulative effects. For example, Table 2 in the NZCPS 7 Guidance Notes records that *“Structures and associated activities in coastal waters can affect...natural character”* and *“proliferation of structures can be difficult to manage where structures are already present”*. The Guidance Notes also record that management responses may include ... *“a limit could be phased in over time as part of a package that includes financial assistance to make the adjustment, education and enforcement”*.

7.4 Our Appendix 1 highlights some areas that are significantly adversely affected through the inappropriate location or excess intensity of coastal marine regulated activities.

7.5 The Associations submitted that as drafted Policy 6.2.7 fails to meet the requirements of NZCPS 7. This is because:

- 1. It does not identify areas of natural character under threat or at risk from adverse cumulative effects, and
- 2. it does not include provisions to manage them, and
- 3. it does not specify acceptable limits to change.

7.6 The Associations submitted that the policy be extended to include *“Acceptable limits of cumulative effects will be determined by reference to the thresholds specified in a particular policy and by reference to best practice and international assessment standards.”*

7.7 Mr Dale responds (page 46) that the Associations submissions have merit but *“significant work would be required to develop this approach. It would require ensuring that there is sufficient information as to the nature scale of all cumulative effects sources, and require*

development of policy or guidelines to occur collaboratively with all relevant stakeholders to achieve a comprehensive approach that can be effectively implemented.”

- 7.8 We submit the fact it may involve significant work is *not* a basis for avoiding the requirements of NZCPS 7.
- 7.9 In terms of acceptable limits to change, we note that policy 6.2.3 (as amended by Mr Dale)³ sets this at any reduction in the classification of natural character in the area to a lower point on a classification scale.
- 7.10 In terms of identifying areas at risk, we suggest that the Boffa Miskell reports *Natural Character of the Marlborough Coast – Defining and Mapping the Marlborough Coastal Environment, June 2014* and *Natural Character of Selected Marlborough Rivers and their Margins, May 2014* have largely done that – some of which are highlighted in our Appendix 1 attached.
- 7.11 What is missing in the MEP, we submit, is the actual identification or scheduling, from this work, of the areas that are at risk or threat from cumulative effects and a policy to then manage these cumulative effects. This can be and should be rectified.
- 7.12 Mr Dale notes that addressing NZCPS 7 for the coastal environment might best be delivered through *a coastal spatial planning approach*. If this is the case then policy 6.2.7 should *at the least* identify the issue and specify that this is the approach that the MEP will adopt (presumably through the Aquaculture chapter for aquaculture effects).
- 7.13 In summary, our submission to the panel is that:
- Areas at risk from cumulative adverse natural character effects, based on the Boffa Miskell reports, must be identified and scheduled in the plan; and
 - That Policy 6.2.7 must be extended to record that cumulative effects from activities in the coastal marine environment are to be managed through a *spatial planning approach*, including where appropriate the identification of acceptable limits of development to be phased in over time.
- 7.14 We submit that this is not something that can be left to be addressed in future MEP plan changes or a future aquaculture chapter. It would be inappropriate to leave the landscape or natural character chapters incomplete on speculation that a future plan change will occur. Moreover, the aquaculture chapter must necessarily be about implementing that particular *activity* into the overarching natural character and landscape policies of the MEP. Aquaculture is not the only activity in the coastal environment requiring cumulative effect management and it would be inappropriate to assume or speculate that aquaculture will be subject to some form of different overarching landscape and natural character objectives and policies to what other activities are subject to.

Part C – Mr Maurice Dale Landscape Section 42A Report

³ at least for areas of high natural character, although as submitted there is no basis for the same not applying to all natural character areas

C1 Policy 7.2.3

1.1 This policy reads *“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 commercial forestry activities.*

1.2 The Associations submitted that aquaculture should be included in paragraph (c). Mr Dale’s response is that *“The aquaculture provisions of the MEP are still to be developed and have yet to be notified. Consequently, it would not be appropriate to address the restriction of marine farming as a specific activity within Policy 7.2.3”*

1.3 Chapter 7 is about landscape values and how activities will be managed in light of landscape values. Aquaculture is an *activity* that must be subject to the same objectives and policies as any other activity in the coastal environment. As noted, it cannot be envisaged or assumed that a future MEP chapter for aquaculture will render aquaculture activity subject to its own different set of landscape values or policies to other coastal activities. It should not be. Moreover, aquaculture activities are required to have a resource consent and under section 68A of the RMA aquaculture cannot be a permitted activity. Thus, we submit, whatever a future aquaculture chapter may entail, it will be inconsistent with Policy 7.2.3 if aquaculture is not included in paragraph (c).

C2 Policy 7.2.7

2.1 This policy reads, inter alia, *“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;...*

2.2 The Associations submitted that this policy fails to recognise the potential effects of aquaculture on landscape (notably seascape) values. No comment is directly made on this submission by Mr Dale's report⁴. We submit that the Policy be extended by including a paragraph along the following lines addressing seascape effects:

"avoiding structures in the coastal marine area where they adversely effect the aesthetic appreciation of nearby outstanding natural feature and landscape values or significantly effect the aesthetic appreciation of other Marlborough Sounds Coastal Landscape values"

C3 Policy 7.2.8

3.1 This reads: *"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."*

3.2 The Associations submitted that the purpose of this policy was elusive and that it will be taken as authenticating the re-consenting of *regulated* primary production activities when they have, either alone or cumulatively, significant adverse effects on landscape values.

3.3 Mr Dale recommends the addition of the wording *"and enable such activities on the basis of their likelihood of degrading landscape values"* to the end of the policy. This merely reinforces our concern that the policy will be inappropriately applied as an enabling policy for existing primary production activity notwithstanding an inappropriate level of pre-existing adverse effects.

3.4 Mr Dale records that *"..the management approach of Policies 7.2.1 to 7.2.3 essentially recognises primary production activities insofar that they only control activities which degrade the values of the landscapes. **Policy 7.2.8** however goes further than those policies in providing a more express recognition of the relationship of primary production activities with landscape values so as to guide the status and rules that apply to those activities. The policy therefore is not intended to direct the re-consenting of primary production activities for example which are instead considered under the management approach contained in Policies 7.2.1 to 7.2.7."*

3.5 Thus, in Mr Dale's view the function of the policy appears to be limited to *expressly recognising the relationship of primary production activities with landscape values.*

⁴ This may be because Policy 7.2.7 was submitted on in conjunction with Policy 7.2.9 under the Policy 7.2.9 Heading

3.6 It is the lack of any need for this *express recognition* that concerns us. When it comes to consenting, *existing* regulated activity must be, we submit, subject to the same policy rigour as *new* regulated activity. The lack of apparent purpose for this policy will invariably invite uncertainty and, notably, speculation that the policy is intended to *enable* existing regulated activity that Policies 7.2.1 to 7.2.7 *wouldn't enable* were it a new regulated activity.

3.7 If this is the intention then the Policy is clearly inappropriate. If this is *not* the intention of the policy then it appears to have no discernable function, will achieve little more than confusion, and should, we submit, be **deleted**.

C4 Policy 7.2.9

4.1 This reads: *"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"*

4.2 The Associations submitted that we disagreed with this policy to the extent that Policy 7.2.7 fails to recognise the effects of marine farm structures on seascape. We support the policy providing the amendment to Policy 7.2.7 as recorded above is accepted.

C5 New Cumulative Effects Policy

5.1 We commend Mr Dale on his recommendation of a cumulative effects policy (page 65 of his section 42A report). However, the cumulative effects policy proposed by Mr Dale is identical to that included in the Natural Character chapter and, as noted earlier in this submission on the Natural Character chapter, it does not meet the requirements of NZCPS 7.

5.2 NZCPS 7 (2) reads : *"Identify in regional policy statements, and plans, coastal processes, resources or values that are under threat or at significant risk from adverse cumulative effects. Include provisions in plans to manage these effects. Where practicable, in plans, set thresholds (including zones, standards or targets), or specify acceptable limits to change, to assist in determining when activities causing adverse cumulative effects are to be avoided."*

5.3 It is clear that NZCPS 7 is intended to address both potential *and existing* cumulative effects. For example, Table 2 in the NZCPS 7 Guidance Notes records that *"Structures and associated activities in coastal waters can affect...natural character"* and *"proliferation of structures can be difficult to manage where structures are already present"*. The Guidance Notes also record that management responses may include ... *"a limit could be phased in over time as part of a package that includes financial assistance to make the adjustment, education and enforcement"*

5.4 The Associations submit that the cumulative effects policy proposed by Mr Dale fails to meet the requirements of NZCPS 7 because:

1. It does not identify areas of landscape value under threat or at risk from adverse cumulative effects, and

2. it does not include provisions to manage them, and
 3. it does not specify acceptable limits to change.
- 5.5 The Associations submitted that the policy be extended to include “*Acceptable limits of cumulative effects will be determined by reference to the thresholds specified in a particular policy and by reference to best practice and international assessment standards.*”
- 5.6 Mr Dale responds (page 65) that the Associations submission has merit but “*significant work would be required to develop this approach. It would require ensuring that there is sufficient information as to the nature scale of all cumulative effects sources, and require development of policy or guidelines to occur collaboratively with all relevant stakeholders to achieve a comprehensive approach that can be effectively implemented.*”
- 5.7 The fact it may involve significant work is *not* a basis for avoiding the requirements of NZCPS 7.
- 5.8 Moreover, in terms of identifying areas at risk, we suggest that the Boffa Miskell report *Marlborough Landscape Study 2015 – Landscape Characterisation and Evaluation*, and its contributory reports, have already largely done that.
- 5.9 In terms of acceptable limits to change, we note that policy 6.2.3 (in the natural character Chapter and as amended by Mr Dale) sets this at any reduction in the classification of natural character in the area to a lower point on a classification scale. We submit that a similar policy should be adopted in Chapter 7 in regards to Landscape values.
- 5.10 What is missing in the MEP is the actual identification or scheduling, from this work, of the areas that are at risk or threat from cumulative effects and a policy to then manage these cumulative effects.
- 5.11 Mr Dale notes that addressing NZCPS 7 for the coastal environment might best be delivered through a *coastal spatial planning approach*. If this is the case then we strongly submit that the new cumulative effects policy should, *at the least*, specify that.
- 5.12 In summary, our submission to the panel is thus that:
- Areas at risk from cumulative landscape value effects, based on the Boffa Miskell reports, be scheduled in the plan; and
 - That an objective threshold for significant adverse effects on landscape, such as is included at Policy 6.2.3 of the Natural Character chapter, be added to the landscape chapter; and
 - That the proposed landscape cumulative effects policy be extended to record that cumulative effects from activities in the coastal marine environment be managed through a spatial planning approach, including where appropriate the identification of acceptable limits of development to be phased in over time.

5.13 As noted above, we record that this is not something that can be left to be addressed in future MEP plan changes or a future aquaculture chapter. They may not. Moreover, the aquaculture chapter is expected to be about implementing that *activity* into the overarching landscape policies. It is also not the only activity in the coastal environment requiring cumulative effect management and it would be wrong, we submit, to assume or anticipate that aquaculture activity will be subject to some form of different overarching landscape policies.

5.14 Finally, we acknowledge that cumulative effects encompass effects from different activities on the same values and that to this end the management of cumulative effects might necessarily reach across different activities. However, that is not to say that the effects of different contributing activities must all be managed concurrently. In many instances the effects of some activities on landscape values or natural character, such as aquaculture, are clear and sufficiently dominating of themselves as to warrant discrete cumulative effects management – irrespective of the degree of affects from other contributing activities. In other instances there may be practical restrictions on the identification or management of contributory effects from other activities - such as siltation from roading or forestry and benthic disturbance from dredging or trawling. However, a practical inability to address the contributory effects of these activities now is no basis, we submit, for failing to address the contributory effects of those activities that can be managed or avoided now – such as from aquaculture.

C6 Implementation Method 7.M.3.

6.1 This lists activities to be regulated in order to manage landscape value effects. The activities listed to be regulated are as follows:

- subdivision;
- erection and placement of structures, especially location, scale, density and appearance;
- land disturbance;
- indigenous vegetation removal;
- commercial forestry; and
- the planting of certain species of exotic tree

6.2 The Associations submitted that the list needed to include aquaculture. Mr Dale’s response is that the aquaculture chapter is yet to be released so this is inappropriate.

6.3 As already noted, aquaculture must be regulated by resource consent and under section 68A of the RMA aquaculture cannot be a permitted activity. As such, whatever the contents of a future aquaculture chapter, aquaculture needs to be regulated by consent and as such needs to be included in the list of activities in Method 7.M.3.

6.4 We reiterate that it would be inappropriate to proceed with a suite of less than comprehensive landscape policies under an assumption that a future plan change will address gaps or inconsistencies in regards a particular activity. It may not.

Andrew Caddie
KCSRA Marine Sub-Committee Chair

For and on behalf of the Kenepuru and Central Sounds Residents Association and the Clova Bay Residents Association.

2 February 2018

APPENDIX 1

TABLE OF AREAS WHERE NATURAL CHARACTER OR LANDSCAPE VALUES ARE SIGNIFICANTLY AFFECTED BY EXISTING REGULATED ACTIVITY

	NATURAL CHARACTER
Description	Section 42A Report Reference⁵
Squally Cove, Oyster Bay, Wairangi Bay and Whakitenga Bay.	Page 25 – “The remainder of the waterbody is unmapped, due principally to presence of aquaculture (Squally Cove, Oyster Bay, Wairangi Bay and Whakitenga Bay) which results in the natural character being considered less than high.”
Melville Cove (Port Gore)	Page 29 “I maintain that no high, very high or outstanding mapping should occur to the waters of Melville Cove due to the existing aquaculture.”
Anakoa Bay	Page 32 “Due to the modifications with this embayment, including much of the bay being cleared for pastoral land use and virtually all of its coastline being used for aquaculture, limited areas of high natural character and above exist.”
White Horse Rock/ Burnt Point	Page 39 “The salmon farm located immediately offshore has prevented the foreshore from also being considered high”
Horseshoe Bay	Page 44 “Within the marine environment, the embayment is surrounded by aquaculture. The presence of aquaculture has assisted to delimit any marine natural character mapping.”
Canoe Bay and Camel Point	Page 47 “Aquaculture within Canoe Bay and around much of Camel Point and north of Elaine Bay prevents this area from being high or very high in the marine environment.”
Forsyth Bay	Page 52 “Forsyth Bay is one of the more recognised bays where aquaculture is present in Pelorus Sound and the natural character mapping (at the Level 4 mapping scale) in this area is reflective of this.... Existing modifications (such as aquaculture) have influenced the extent of the mapping (noticeably in the marine environment) and that the mapping is responsive to this current situation.”
Crail/Clova Bays	Page 53 “Both Crail Bay and Clova Bay are recognised areas of Pelorus Sound where aquaculture is present. As a consequence of this, the marine environment of both of these bays is not rated at the Level 4 scale as holding high, very high or outstanding for natural character (however some parts may retain higher levels of natural character at the more refined scale of mapping at Level 5).”
Beatrix Bay	Page 54 “Beatrix Bay is recognised as an area of Pelorus Sound where aquaculture is present. As a consequence of this, the marine environment is not rated high, very high or outstanding

⁵ Unless otherwise noted references are to the Section 42A reports of Mr James Bentley

	for natural character at the Level 4 scale (however some parts may retain higher levels of natural character at the more refined scale of mapping at Level 5).”
East Bay QC Sound	Page 56 “Within the marine environment, no mapping has occurred where aquaculture is present, as this reflects the ongoing adverse effects aquaculture has on the natural character of the marine environment.”
Tory Channel	Page 58 “Regarding modifications, all mussel farms and two existing salmon farms have been excluded from the mapping, with the recently consented third farm (Ngamahau) now requiring to be excluded. This will result in a small mapping change”
	LANDSCAPE
Waihinau Bay, Port Ligar and most of Forsyth Bay/ Orchard Bay.	Page 26 “Also, more concentrated areas of modifications, such as larger groups of marine farms, coupled with trawling and dredging, may impact upon a landscape or feature that does not warrant that part from reaching the outstanding threshold, when mapped at that scale. It is because of this type and extent of modification that the seascape of Waihinau Bay, Port Ligar and most of Forsyth Bay/ Orchard Bay have not been mapped and therefore not identified as being outstanding”
Inner Admiralty Bay	Page 27 “Sufficient modification within the inner bay, including the presence of aquaculture has prevented much of this from being outstanding.”
Waitata - Hamilton Bay	Page 28 “The extent of the ONL/ONF mapping in the marine area has been restricted by the presence of the aquaculture”
Kauauroa Bay, Tawhitinui Bay and around Tapapa Point	Page 31” Aquaculture within Kauauroa Bay, Tawhitinui Bay and around Tapapa Point has restricted the waters of the embayment’s of being mapped, along with significant dredging occurring”
Western Beatrix Bay – Whakamawahi Peninsula	Page 31 “The aquaculture that is aligned along its foreshore has foreshortened the outstanding overlay from extending further into the waters of the bay.
Tawero Point	Page 32 “All existing modification has been considered, including aquaculture and land use practices. The presence of these modifications has prevented the ONL mapping from extending beyond these mapped areas. The mapping at Tawero Point encompasses the slender peninsula as an impressive landform feature of central Pelorus Sound and its extent into the marine environment terminates at the foreshore ⁶ .
Okiwi Bay	Page 34 “the removal of the ONL mapping where it overlays with marine farm 8592”.
Tennyson Inlet	Page 35 “a slight adjustment to the extent of the ONL boundary to avoid the current overlap with mussel farm 8203.”
Fairy Bay	Page 35 “This group of three farms is isolated from the remaining area of farms and when considered in the broader context, represents limited modification within a broadly unmodified and highly natural part of Pelorus Sound. By cutting these Fairy Bay farms out of the ONL, it would affect the overall

⁶ This is necessarily because of the regulated marine farming structures

	cohesion of the broader overlay.”
Port Gore – Melville Cove	Page 42 “The cumulative modification brought about by aquaculture in Melville Cove has prevented this area from reaching the ‘is the water natural enough’ to be considered outstanding.”
Te Puraka Point to Waimaru Bay	Page 44 “Aquaculture located around these features has prevented much of the seascape from being mapped.”.
East Bay QC Sound	Page 46 “The seascape mapping in this area has avoided the areas of aquaculture”
Port Underwood	Page 49 “Aquaculture within Port Underwood has prevented much of the seascape from being identified and has had a direct effect on the mapping extent.”