



Proposed Marlborough Environment Plan

Decision and Report Apex Marine Farm Limited – Submission Point 112.15 to Variation 1 of the Proposed Marlborough Environment Plan

Hearing dates: 9 – 11 and 15 – 18 November 2021

Commissioners: Trevor Hook
David Oddie
Shonagh Kenderdine
Rawiri Faulkner
Sharon McGarry

Date of decision: 28 April 2023

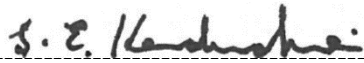
Decision was made under delegation (Minute 18 March 2021) from the Marlborough District Council:



Trevor Hook (Chairperson)



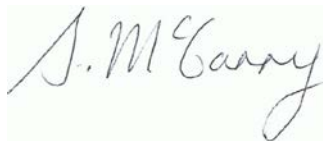
David Oddie



Shonagh Kenderdine



Rawiri Faulkner



Sharon McGarry

Dated this 28th day of April 2023

List of Abbreviations

AMA	Aquaculture Management Area
CMA	Coastal Marine Area
MARWG	Marlborough Aquaculture Review Working Group
MDC/Council	Marlborough District Council
NZCPS	New Zealand Coastal Policy Statement 2010
PMEP	Proposed Marlborough Environment Plan
RMA	Resource Management Act 1991
RPS	Marlborough Regional Policy Statement
TAG	Technical Advisory Group

Introduction to Decision

Delegation

1. Pursuant to the Resource Management Act 1991 (RMA), the Marlborough District Council's (MDC or 'the Council') Planning Finance and Community Committee delegated¹ the necessary powers and functions to the Hearing Panel to hear submissions and make decisions on Variation 1: Marine Farming of the Proposed Marlborough Environment Plan (PMEP). The Council's Committee resolved to appoint a hearings panel comprising one councillor, Councillor David Oddie, and four independent commissioners, Mr Trevor Hook, Ms Shonagh Kenderdine, Mr Rawiri Faulkner and Ms Sharon McGarry. The Committee appointed Commissioner Hook as Chair of the Hearing Panel. This is the written decision and report of the appointed Hearing Panel ('the Panel').
2. This report and decision relate to Apex Marine Farm Limited ('Apex') submission point 112.15 to Variation 1 to create three new Aquaculture Management Areas (**AMAs**) in Onapua Bay, Tory Channel for the establishment and operation of three marine farms – Sites A, B and C; and should be read in conjunction with the Panel's decision and report on Variation 1.
3. Following the adjournment of the hearing, the Panel undertook a site visit to Onapua Bay by boat.

Background

4. Apex lodged a private plan change and resource consent applications U170038, U170039 and U170040 (**PPC/RCA**) with the Council in January 2017 to establish and operate three new marine farms within Onapua Bay, Queen Charlotte Sound/Tōtaranui. The PPC/RCA lodged with the Council are currently 'on hold' at the request of Apex pending the outcome of Variation 1 and Apex's submission to provide three new additional AMAs at Onapua Bay.
5. At the time the Apex PPC/RCA was lodged, the Council was beginning to develop Variation 1. On 26 November 2017, the Council and Apex agreed to a Memorandum of Understanding (**MoU**) to deal with the processing of the PPC/RCA alongside the development of Variation 1. As a result, the Council agreed to set up a Technical Advisory Group (**TAG**) to report on whether aquaculture was appropriate in Onapua Bay in the locations proposed. The TAG comprised of experts on - ecology (Dr Steven Urlich, Coastal Scientist with MDC); natural character, landscape and visual amenity (Mr James Bentley, Landscape Architect, Boffa Miskell); navigation and

¹ At a meeting held on 18 March 2020, under section 34A of the RMA. At this date, Mr Oddie, in his role as a Marlborough District Council Councillor, was appointed to the Hearings Panel. Councillor Oddie did not seek re-election at the 2022 local government elections. At its meeting on 22 September 2022, the Council appointed Mr Oddie as an Independent Commissioner to the Panel to enable him to complete the process of making a decision on Variation 1 with the remainder of the Hearings Panel.

recreation (Mr Luke Grogan, Harbourmaster, MDC); and planning (Ms Debbie Donaldson, Planner, Kāhu Environmental).

6. In summary, the TAG report concluded that, subject to undertaking consultation and consideration of comments received prior to notification of the PPC/RCA, Site A was not an appropriate location and Site B and Site C may be appropriate locations for aquaculture. The TAG report recommended that an AMA in Onapua Bay may be appropriate and that the TAG Report could be used as a basis for a draft Variation 1B: Apex Marine Farms Limited to the PMEP.
7. The Council undertook consultation with the Onapua Bay landowners on draft Variation 1B in September 2020 and following substantial feedback from landowners, which included expert evidence on ecology, recreation and planning, the Council decided not to proceed with notification of draft Variation 1B.
8. The Council was in the process of considering the feedback from landowners to draft Variation 1B when Variations 1 and 1A were notified.

Apex Submission Point 112.15

9. Apex's submission originally sought three new AMAs along the eastern coastline of Onapua Bay as follows:
 - (a) Site A – 7.5 hectares (**ha**) located on the eastern side of the bay, adjacent to the scenic reserve, approximately 800 m from Tory Channel;
 - (b) Site B – 5.4 ha located on the eastern side of the bay, adjacent to the scenic reserve; and
 - (c) Site C – 2.8 ha located on the eastern side of the head of Onapua Bay in a small embayment adjacent to Crown Forest land.
10. Apex amended the proposed AMA and structure layout for Site C by providing a new map of Onapua Bay 'Site C Amended 15 Nov 2021' and a new site plan 'Layout Amended 15 Nov 2021'.
11. To support the submission, Apex reference the information provided with the PPC/RCA, including an assessment of environmental effects, section 32 evaluation, landscape assessment (Hudson Associates Landscape Architects²), biological assessment (Davidson Environmental Limited 2016³), navigation report (Captain David Walker⁴).

² 'Landscape assessment for Apex Marine Farm Limited, Onapua Bay' 20 December 2016.

³ 'Biological report for a marine farm application located in Onapua Bay, Tory Channel, Research, survey and monitoring report number 872' January 2016.

⁴ 'Navigation Report on Apex Marine Farms Ltd's Proposal for new oyster farms in Onapua Bay.' 20 December 2016.

Section 42A Reports

12. The Council provided the following section 42A reports addressing the Apex submission to provide three new proposed AMAs at Onapua Bay and further submissions on this point:
 - (a) *'Variation 1: Marine Farming to the Proposed Marlborough Environment Plan – Apex Marine Farm Submission Point 112.15 and further submissions'* (dated 8 October 2021) prepared by Debbie Donaldson, Consultant Planner, Kāhu Environmental (referred to as **'section 42A report - Apex'**);
 - (b) *'Variation 1: Marine Farming to the Proposed Marlborough Environment Plan – Section 42A Technical Evidence: Coastal Ecology'* (dated 9 November 2021) prepared by Dr Hilke Giles, Consultant Coastal and Systems Scientist, Pisces Consulting Limited (referred to as **'section 42A report - Coastal Ecology'**);
 - (c) *'Variation 1: Marine Farming to the Proposed Marlborough Environment Plan – Section 42A Technical Evidence: Natural Character, Landscape & Visual Amenity'* (dated 9 November 2021) prepared by James A Bentley, Consultant Senior Principal Landscape Architect, Boffa Miskell (referred to as **'section 42A report – Natural Character'**); and
 - (d) *'Variation 1: Marine Farming to the Proposed Marlborough Environment Plan – Section 42A Technical Evidence: Navigation and Recreation'* (dated 9 November 2021) prepared by Luke Grogan, Harbourmaster, Marlborough District Council (referred to as **'section 42A report - Navigation'**).
13. The section 42A reports should be read in conjunction with this decision.
14. The section 42A report – Apex by Ms Donaldson addressed the Apex submission point 112.15 and the relief requested in submissions on Variation 1, evaluated the relief requested and recommended the Apex submission should be rejected and the further submission should be accepted; and that no new AMAs are provided at Onapua Bay.
15. Appended to the section 42A report – Apex were copies of the 'Technical Advisory Group (TAG) Report – Recommendation for the inclusions of an aquaculture management area (AMA) in the Proposed Marlborough Environment Plan (PMEP) within Onapua Bay, Tory Channel' prepared for the Marlborough District Council August 2019' and three reports by Pieces Consulting Limited⁵ (Appendix B).

⁵ Report 1 – *'Potential effects of longline oyster, mussel and macroalgae farming in Onapua Bay, Tory Channel, Marlborough Sounds'* (dated 25 August 2021);
Report -2 *'Technical review of previous assessments of the proposed AMA in in Onapua Bay, Tory Channel, Marlborough Sounds'* (dated 25 August 2021); and

16. The TAG Report provided a technical assessment of the information provided with the Apex PPC/RCA on ecological, natural character, landscape, visual amenity, recreation and navigation, and historic and cultural heritage.
17. Ms Donaldson attended the hearing to present her report and was available to answer questions and provide clarifications during the hearing. The Council's technical experts who provided section 42A reports were available by internet connection to answer questions of clarification.
18. After hearing the evidence presented to the Panel, Ms Donaldson confirmed the Council's recommendation remained unchanged that the Apex submission should be rejected and the further submissions accepted; and no new proposed AMAs should be provided in Onapua Bay.

Apex's Evidence

19. Mr Quentin Davies presented legal submissions for Apex highlighting the context of the bay where a large amount of plantation forestry activities have occurred and would occur into the future; and the recommendation of the TAG. He noted the need for a bespoke rule regime to add a new discretionary activity rule for farming oysters and seaweed.
20. The Panel heard evidence from Mr Bruce Hearn and his son Mr Nick Hearn outlining the development of techniques for growing flat oysters (*Ostrea chilensis*) and seaweed, and their experience in marine farming in Port Underwood, Tory Channel and the Pelorus Sound.
21. Mr Hearn (Senior) provided a statement of evidence outlining the experiences and challenges faced with farming flat oysters, plans for growing *Asparagopsis armata* harpoon weed) and the need for three separate areas to achieve international biosecurity best practice of the year class separation. He highlighted the adverse impacts of fine clay silt on the benthos from forestry operations and considered the benthos in front of the scenic reserve was similar to the rest of the bay. He noted the coastal structures associated with the dwellings in the bay and the log load out site. He disagreed that the proposed marine farms would complicate navigation during the hours of darkness given navigation lights aid navigation. He concluded the provision of AMAs would facilitate the return of flat oyster farming to Marlborough Sounds and the polyculture of *Asparagopsis armata* on mussel ropes. Appended to his statement of evidence were two scientific papers⁶, a new article and a series of annotated photographs.

Report 3 – 'Assessment of ecological effects of a proposed AMA in in Onapua Bay, Tory Channel, Marlborough Sounds' (dated 25 August 2021).

⁶ 'Mitigating the carbon footprint and improving productivity of ruminant livestock agriculture using red seaweed' from the Journal of Cleaner Production Volume 259, 20 June 2020 and "Dietary inclusion of the red seaweed *Asparagopsis taxiformis* boosts production, stimulates immune response and modulates gut microbiota in Atlantic salmon, *Salmo salar*" from Aquaculture Volume 546, 15 January 2022

22. Mr John Hudson, a Landscape Architect with Hudson Associates, undertook a landscape, natural character and amenity assessment and provide a statement of evidence for Apex.
23. Captain David Walker provided the navigation report and a statement of evidence for Apex summarising the report and responding to information relating to navigation issues.
24. Mr Rob Davidson provided the biological assessment and a statement of evidence for Apex outlining the data available for the proposed sites and responding to the information gaps identified in the section 42A report.
25. Mr Davidson also provided a supplementary statement of evidence responding to the evidence of Dr Mead regarding the photic zone.
26. Mr Ron Sutherland presented a statement of evidence summarising the existing environment and use of land and the coastal marine area, potential future changes un development and use, and Katoa Reserve; and providing a high level planning summary. He outlined the various iwi consulted on 3 February 2017; and landowners contacted by letter or phone. Mr Sutherland concluded aquaculture would have minor environmental effects and farming oysters and algae at Onapua Bay would be appropriate. Appended to his evidence were plans of the site's layout and a letter from Mr Roy Grose, Director of Operations, Northern South Island Region, Department of Conservation.

Further Submissions

27. The Council received 13 further submissions in opposition to the Apex submission, which were summarised in the section 42A – Apex report. The Panel has read each further submission. The Friends of Onapua Bay (**FOB**) further submission provided a technical report by Mead and Davies-Campbell 2021⁷ assessing coastal ecology effects; and a report by Canopy NZ Ltd⁸ assessing landscape, natural character and amenity effects.
28. Mr Peter Ryan spoke to his further submission in opposition to the proposal at the hearing. He highlighted concerns regarding adverse effects on the views from his dwelling, navigation safety issues for vessels in windy conditions, reasonably high levels of recreational use of the sheltered anchorage in summer, and the size and frequency of the barges using a narrow channel. He considered the proposal was contrary to Policies 6, 13 and 15 of the New Zealand Coastal Policy Statement 2010 (**NZCPS**).

⁷ *'Marine Ecological Investigation of Onapua Bay, Tory Channel'*. Prepared by eCoast for Friends of Onapua Bay Inc.

⁸ *Tory Channel Apex Marine Farm: Variation 1 Landscape, Natural Character and Visual Amenity Effects Landscape Statement October 2021* Prepared by Canopy NZ Ltd for Friends of Onapua Bay Inc.

29. Mr David Morse spoke to his further submission in opposition to the proposal at the hearing. He noted he was the third generation of his family enjoying Onapua Bay and that the marine farms would be in the middle of their existing view of the bay. He noted the bay was popular for recreational boating and that the more sheltered north side of the bay was used as the main navigation route given the wind and rain patterns. He highlighted the remoteness values and wildlife values (seals and birds). He considered the navigation lights would ruin the phosphorescence often seen in the bay; and Site C would ruin the small embayment that was used as a refuge in adverse weather.
30. Mr Brent Williams made a presentation at the hearing on behalf of FOB and called three expert witnesses – Ms Liz Gavin (landscape, natural character and amenity effects), Mr Rob Davidson (recreation effects) and Dr Shaw Mead (coastal ecology effects). Mr Williams highlighted the special values of the bay and disagreed it was just a working environment as claimed. He noted the absence of people and structures, and lights at night. Following the adjournment of the hearing, Mr Williams provided an email clarifying points made at the hearing and by Mr Davies.
31. Mr Andrew Snee and Mr Darren Carlaw spoke at the hearing in opposition to the proposal. They highlighted the natural values of the bay and its relatively high recreational use. They noted orca had visited the bay on two occasions and a pod of dolphins were regular visitors. They considered Site A would be directly in front of their dwelling and would have significant adverse impacts on their view. They noted the proposal had caused them a lot of stress and financial burden to fight it.
32. Mr Kadin Morse spoke at the hearing in opposition to the proposal on behalf of his family who have owned their bach since the 1960s. He considered the bay was part of his upbringing and heritage and held important value related to aesthetics, navigation safety and privacy. He noted there were no lights in their view except for the ferry passing. He was concerned that only property owners would have known of the proposal and considered affected members of the public would be unaware of this process.
33. Mr Glen and Ms Bobby Freeth spoke to their further submission in opposition to the proposal at the hearing. They noted they were permanent residents and would be significantly affected by the proposal. They highlighted the importance of the Yacht Club mooring, frequent use by orca and dolphin, and the high level of recreational use for water skiing and ski biscuiting.

Evaluation

Ecological Effects

34. Dr Giles' section 42A report – Coastal Ecology concluded the adverse effects of the marine farm activity would likely be minor to negligible on the available information. Her report highlighted the need to remove a reef identified in Site B and provide an adequate buffer to protect it from adverse effects; and to provide scientifically robust information about benthic habitats and epifauna currently present in the proposed new AMAs to assess their ecological value and sensitivity to effects from shell drop off. Her report also noted information gaps in relation to potential nutrient uptake from macroalgal farming and biosecurity risks from farming macroalgal species.
35. Mr Davidson noted the biological data collected during two surveys conducted in 2016 and 2021. He highlighted the notable changes between surveys was the appearance of scallops and the formation of dense beds of *Chaetopterus* (tubeworms) and the establishment of a biogenic community on the shore slope. He considered all the marine farms were located over low gradient, mud dominated benthos, except for the reef structure identified within Site B which would be protected with a structure exclusion area. He noted the bay edges (shore slopes) support a range of rocky and coarse substrata habitats and associated communities. He concluded the impacts of farming seaweed and oysters would be at the low end of the spectrum.
36. In response to Dr Mead, Mr Davidson considered it was unlikely light reduction would be sufficiently reduced to alter biological processes. He noted diatom (algae) films are very widespread in the Sounds and that the tubeworm patches were sparse and patchy.
37. Mead and Davies-Campbell 2021 described widespread anecdotal evidence from the observations of local people in Onapua Bay of the continuing improvement in marine ecology in the bay. The assessment disagreed with the assessment of benthic habitats and species present and the overall ecological value of the habitats in the proposed AMAs; and described relatively complex 3-dimensional biogenic habitats from drone footage, which they assigned high ecological value. The assessment considered the sites were not appropriate due to adverse effects on benthic primary producers due to shading.
38. Dr Mead noted the proposal failed to align with the guiding principles of the MARWG by locating the marine farm sites over the photic zone and impacting the production of benthic microphytes (algal mats). He noted Policy 8.2.9 of the PMEP sought to maintain, enhance or restore ecosystems, habitats and areas of indigenous biodiversity, even where these are not identified

as significant, but are important for continued functioning of ecological processes, and biological and genetic values. He considered all of the photic zone of Onapua Bay was important in this regard. He highlighted there would be significant change to the benthic environment and impacts of shading on primary producers, as seen under other like marine farms in low-energy areas of the Marlborough Sounds. He considered the new video transect evidence provided by Apex showed a large range of species (blue mussels, green-lipped mussels, horse mussels, scallops, periwinkles, cat's eye snails, golden limpets and red algae), different habitats and biological communities that were in stark contrast to the Davidson Environmental Report 2016.

39. A written opinion from Ms Bridgette May-Stanley, for FOB, analysed the recent video transects provided by Apex. She identified a range of benthic species consistent with Dr Mead's analysis, as well as a common octopus, echinoderms, red algae, brown seaweed, fan worms, sea cucumbers, sea sponges and a range of fish species.

Findings

40. The Panel accept the evidence of Dr Giles and Mr Davidson that with protection of the reef structure identified within Site B the proposal will not result in more than minor adverse ecological effects on the ecology of Onapua Bay. However, the Panel considers the reef structure and an appropriate buffer to avoid adverse effects should not be included within an AMA due to this area not being appropriate for aquaculture. The Panel finds Site B as proposed with use of a structure exclusion area is not appropriate.
41. The Panel notes the evidence of Dr Mead in relation to potential adverse effects on the photic zone and inconsistency with the MARWG principles and the intention of Variation 1. The Panel agrees that the proposed marine farms are located too close to the shore to avoid the intertidal area and reduce adverse effects on the shallowest part of the photic zone. This is inconsistent with the intention of Variation 1 and the MARWG principle of 100-300 m coastal ribbon from low water to avoid adverse effects on the functioning of the intertidal zone.

Natural Character, Landscape and Visual Amenity Effects

42. Mr Hudson considered the existing landscape character rating was 'low-moderate' and the natural character for the terrestrial and marine environment was 'moderate'. He rated the marine component as 'low-moderate' due to modification of the seafloor from mud. He considered the overall visual amenity baseline was 'moderate', with visual amenity from the dwellings as 'moderate or high'. He noted agreement with Mr Bentley that the proposal would have a 'moderate' effect on landscape values, despite their minor differences in landscape ratings. He disagreed with Mr Bentley that Site A would affect the existing natural character and

disagreed with the high natural character rating across half the bay. He noted any adverse visual amenity effects would have a limited audience and depended on an individual's values. He considered the main area of disagreement related to the extent of High Natural Character within the marine area of Onapua Bay.

43. Mr Bentley's section 42A report concluded the three AMAs were located in an inappropriate area due to adverse effects on natural character, landscape and visual amenity values present in Onapua Bay. He noted two of the proposed new AMAs would abut a scenic reserve which is regenerating. He highlighted Onapua Bay is not recognised as a ONFL but is a High Amenity Landscape Feature (**HALF**) under the PMP. He noted a small area of high natural character extends along the marine part of the coastal environment adjacent to the Scenic Reserve. He considered the AMAs would create 'high and significant' adverse effects on the existing high natural character and considered that no new AMAs would preserve the natural character of the coastal environment as required under Policy 13 of the NZCPS. If the new AMAs were created, he considered the mapped area of high natural character in the PMP would need to be reduced.
44. Mr Bentley considered the removal of Site A would reduce the adverse landscape effects closer to the level assessed by Mr Hudson; and would reduce the visual amenity effects from four of the five assessed dwellings and improve visual amenity for users on the water but would remain 'moderate-high' for 'Dwelling 5'.
45. Ms Gavin provided a statement of evidence on landscape, natural character and visual amenity effects. She considered the proposal would have a 'high' adverse effect on natural character due to the magnitude of change to an area with a low ability to absorb the activity. She noted the marine farms would dominate the natural elements of the seascape and have 'high' adverse landscape effects on seascape amenity values and naturalness. She considered the proposal would have 'high' levels of adverse effects on the visual amenity of residents and water based activities. She concluded the proposal would not give effect to Policy 13(1)(b) or Policy 15(b) and must be rejected.
46. In reply evidence, Mr Bentley responded to the evidence of Mr Hudson and stated it was a 'finely balanced assessment'. He highlighted his effects assessment using the 7-point scale⁹ and concluded the landscape, natural character and visual amenity effects were typically on the higher side. He noted he had taken a 'nuanced' assessment looking at each farm, as well as the

⁹ A universal scale to rate quantitative assessments as recommended in Te Tangi A Te Manu Aotearoa New Zealand Landscape Assessment Guidelines 2021.

proposal as a whole, and measures to mitigate, remedy and avoid adverse effects. He disagreed with Mr Hudson that his conclusions regarding Sites B and C had changed, but rather had been informed by further discussions with Mr Baxter and Dr Giles, and the report of Ms Gavin. He noted his discussions with the other experts and their reports supported a 'high' rating for the condition of the benthic strip adjacent to the reserve and acknowledged the subject was still subject to appeal under the PMEP by Apex. He considered the proposed marine farms would reduce the natural character of the mapped 'high' natural character area to 'moderate-high'; and that such a 'step change' would be significant. Based on this, he confirmed his original assessment.

Findings

47. Onapua Bay is one of only a few bays left in Tory Channel without the presence of marine farming activity. There is a low level of modification in the existing marine/seascape component of the landscape. The coastline of the eastern side of the bay predominantly free of structures, except for one mooring and the jetty at Opua Bay. The Panel accept the natural character values of the coastal marine area are high, and the terrestrial environment is moderate-high along the scenic reserve, changing to moderate along the forestry land.
48. In considering effects on natural character values, the Panel has focussed on abiotic, biotic and experiential aspects of the coastal environment that are affected by modification, including the physical, perceptual and associative aspects of the benthos, water column, water surface and the air above the marine environment. The expert evidence and submissions have informed the Panel's assessment of the both the marine and terrestrial components of to understand the broader natural character of the area.
49. The Panel accepts the evidence of Mr Bentley and Ms Gavin that the proposed marine farms will result in a 'step change' by lower the existing natural character values from high adjacent to the scenic reserve and from moderate-high in the small unnamed embayment.
50. The Panel accept the evidence of Mr Bentley that Site A would have 'significant' adverse effects on natural character values; and Sites B and C would have 'moderate' (more than minor adverse) on natural character values. Which accords with Ms Gavin's evidence the marine farms together will have a 'high' adverse effect in the local context. The Panel noted Mr Bentley's initial view that the removal of Site A could reduce the effects of the proposal to a level consistent with the relevant objectives and policies of the PMEP and NZCPS, but disagree given the change in natural character values of the small embayment from Site C. The Panel

finds that the proposal will result in significant adverse effects on existing high natural character values within Onapua Bay and will not give effect to Policy 13(1)(b) of the NZCPS.

51. The Panel agrees with Ms Gavin that the three proposed marine farms will dominant the bay given their placement along most of the eastern side of the bay, the size of the farms compared to the size of the bay, and the relatively narrow width of the bay. The Panel agrees with Ms Gavin and Mr Bentley that the three marine farms will have a high adverse effect on the landscape character of the marine component of the environment by reducing the naturalness values of views and the amenity of the bay as experienced within 250-300 m of the farms; and moderate-high adverse effects 500 m from the farms, which includes most of the waters of the bay and the adjacent shoreline. The Panel considers this equates to a significant adverse effect on the landscape values of Onapua Bay, which must be avoided to give effect to Policy 15(b) of the NZCPS.
52. Onapua Bay holds high amenity values near the scenic reserve, with these values lessening nearer the head of the bay and forestry activities. The scale of visual effect is largely restricted to Onapua Bay with a viewing audience consisting of residents, people transiting the bays, transient recreational users and barges/vessels accessing the forestry plantations. The existing views from the residential dwelling are uninterrupted views of open unmodified waters, with the scenic reserve as a backdrop.
53. The Panel accepts the evidence given by residents and property owners that the proposal will have significant adverse effects on their existing views across the bay and the current level of amenity enjoyed, which is closely associated with their experience of the natural elements.
54. The Panel accepts the evidence of Mr Bentley and Ms Gavin that the proposal will have moderate-high adverse effects on four of the five existing dwellings in Onapua Bay, and on people undertaking water based recreational activities.
55. The Panel finds that overall, the three proposed marine farms will have significant adverse effects on the existing natural character, landscape and amenity values of Onapua Bay.

Navigation and Recreation Effects

56. Mr Grogan's section 42A report considered effects on recreational boating activity, existing barge operations, and the narrowing of the navigable channel, including consideration of the prevailing wind. He concluded the additional complexity created by the proposed marine farms would not create an impact on navigation safety that was more than minor if appropriate navigation aids were installed and a navigable corridor of at least 100 metres wide was created between the north eastern coastline and the marine farm structures. In terms of impacts on

the experience of navigation in Onapua Bay, he concluded the proposal would have significant adverse impacts associated with:

- (a) the ease of accessing the unnamed anchorages;
- (b) less availability of anchorage space within the unnamed anchorage;
- (c) reduced wilderness value with loss of amenity for anchorage users;
- (d) reduced opportunity for a wilderness experience in Tory Channel;
- (e) less pleasant and more difficult experiences of navigation during prevailing wind conditions;
- (f) less efficiency in water transportation due to reduced travels speed of 5 knots within the bay, and
- (g) the inability to undertake recreational activities at speeds of more than 5 knots, such as water skiing, across most of the bay adjacent to Sites B and C.

57. Captain Walker considered the proposed marine farms would be an inconvenience to navigators and that the impact on navigation safety would be very minor. He noted that under the 200 m from shore rule vessel speeds could only exceed 5 knots in the middle of the Onapua Bay and the middle of Opua Bay. He considered the lighting on the marine farms would benefit navigation at night.
58. Mr Rob Greenway highlighted Onapua Bay has similar levels of recreational boating to much of Queen Charlotte Sound and would be included in Policy 9.1.1 of the PMEP as an area of 'high degree of importance for public access' where the Council 'will as a priority focus on enhancing access to and within'. He concluded the proposal would have more than minor adverse effects on recreation amenity and was inconsistent with Policy 18 of the NZCPS.

Findings

59. The Panel accept the evidence of Mr Grogan that the proposal will have significant adverse impacts on the experience of navigation by restricting navigation to the south side of the bay, reducing vessel speeds to 5 knots within most of the bay, and loss of access to the small, sheltered embayment on the north side of the bay.
60. The Panel accepts the evidence of Mr Greenway that the proposal will have more than a minor adverse effect on the existing recreation amenity.

Cultural Effects

61. The section 42A report noted there are a number of Māori archaeological sites identified in Onapua Bay and a Pa site on the south shore but that these were not located within close proximity to the proposed AMAs. The Report also noted there were no sites of cultural heritage within Onapua Bay identified in Appendix 13 of the PMEP.
62. The section 42A report concluded there was not enough information to be satisfied there would be no adverse effects on cultural values given the clear direction from the legislation and policy.
63. Mr Davies submitted there was no evidence to suggest any adverse effects on cultural values.
64. No specific evidence was provided regarding Marlborough's tangata whenua iwi's cultural values or relationship with Onapua Bay.

Findings

65. The Panel finds there is insufficient evidence to enable an assessment of the appropriateness of the proposed AMAs from a Māori cultural perspective. The Panel notes Apex propose a rule regime to make the proposed marine farming a discretionary activity and that this may enable further input from iwi. However, the Panel considers this does not address the appropriateness of the proposed AMAs or the requirement to give effect Objective 3 and Policy 2 of the NZCPS.

Positive Effects

66. Mr Sutherland noted Apex were prepared to commit to '80 man hours' for wilding pine control in the scenic reserve, as a part of the proposal, to benefit the restoration of natural character. He highlighted the positive economic, social and community effects from marine farming.

Findings

67. The Panel accepts 80 hours of wilding pine control will have a positive effect on restoring the natural values of the scenic reserve.
68. The Panel accepts the proposed marine farms will have positive economic effects for Apex and positive effects for the community.

Relevant Objectives and Policies of the NZCPS, RPS and PMEP

69. In terms of ecology, the section 42A report concluded the proposal would give effect to NZCPS Policy 11 and would achieve RPS Policies 8.3.1 and 8.3.4, and PMEP 13.1.1 and 13.2.1.
70. In terms of natural character, the section 42A report concluded the proposal would not give effect to NZCPS Policy 13(1)(b) and would not achieve RPS Objective 6.2, RPS Policy 6.2.2, and PMEP Policies 13.1.1 and 13.2.2.

71. In terms of landscape, the section 42A report concluded the proposal would not give effect to NZCPS Policy 15(b) and would not achieve RPS Objective 7.2.
72. In terms of visual amenity, the section 42A report concluded the proposal would not achieve PMEP Objective 13.2 and Policy 13.2.4.
73. In terms of navigation and recreation, the section 42A report concluded the proposal would not give effect to NZCPS Policy 6(2)(b) and would not achieve PMEP Objective 13.15 and PMEP Policies 13.15.2, 13.2.1, 13.3.2 and 13.3.4.
74. The section 42A report concluded there was insufficient evidence to be satisfied there would be no adverse effects on cultural values and to give effect to NZCPS Policy 2.
75. Mr Sutherland highlighted forestry operations over time and considered the bay had the character of a 'working environment', with a lot of barge activity for the log loading site. He noted the soil types in the bay were prone to slippage and sheet erosion which had resulted in sedimentation accumulating on the seabed. He considered the effect of aquaculture would be minor compared to fine sediment deposition from the wider catchment. He outlined the land zoning under the PMEP and the range of permitted activities that could occur in the future, which he considered would result in the catchment continuing to 'have an industrial look about it'. He considered the scenic reserve was not high quality and was not a high priority for management by the Department of Conservation. He concluded the proposed AMAs would be appropriate.

Findings

76. The Panel does not accept Mr Sutherland's view that Onapua Bay is a 'working environment' with an 'industrial look' due to historic and ongoing forestry operations. Nor his approach to comparing adverse effects from sedimentation to those of aquaculture. These factors do not justify the appropriateness of Onapua Bay for aquaculture activities.
77. The Panel accepts the section 42A report analysis of the relevant objectives and policies of the NZCPS, RPS and PMEP. In addition, the Panel considers the proposal will not give effect to NZCPS Objective 2, 3, and 4 and Policy 18.
78. Overall, the Panel finds the proposed new AMAs in Onapua Bay are inconsistent with the relevant objectives and policies of the NZCPS, RPS and PMEP.

Decision

79. For the reasons outlined, the Panel accepts the section 42A report recommendation to reject the submission by Apex and not provide new proposed AMAs in Onapua Bay.

