

Partners:

Brian Fletcher LLB  
Paul Gibson LL.M, BCA  
Quentin Davies LL.M (Hons), BSc (Hons)  
Scott Wight LL.B, BSc

Associates:

Claire McKendry LL.B, BSc  
Amanda Hills LL.B (Hons), BCom  
Tom Dobbs LL.B, BA  
Emma Tucker LL.B, BA (Hons)

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Marlborough District Council  
PO Box 443  
Blenheim 7240

E-mail: pere.hawes@marlborough.govt.nz

Attention: Pere Hawes

### **Marlborough Environment Plan and the Seddon Earthquake of 14 November 2016**

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1. We act for the Burkhart families and their various interests. Our clients would like Marlborough District Council ("MDC") to revisit and vary the Marlborough Environment Plan ("MEP") for the Ward beach area in light of the 2016 Seddon earthquake.
2. The MEP was publicly notified on 9 June 2016 with submissions closing on 1 September 2016. The earthquake which affected the Ward coast occurred on 14 November 2016: that is, long after the time for submissions had passed. In addition to the immediate effects of the earthquake, there have been long term effects. One such example is a change in the beach profile at Ward preventing access to crayfish stocks immediately off the coast. Disaster recovery is not something which is planned for under the MEP.
3. Section 81(3) of the RMA is relevant. This section addresses the situation where the boundaries of a region or district are altered. Subsection 3 states: "A territorial authority shall, as soon as practicable but within 2 years, make such changes to its district plans as it considers necessary to cover any area that comes within its jurisdiction, and, after the changes are made, this section shall cease to apply". The MEP mapping currently includes, as part of the coastal marine area, land which is no longer under the sea. As a result, new land has come under the jurisdiction of the MDC's District Council function.
4. Our clients seek that the planning regime with respect to the Ward coast be revisited in a variation. An argument could also be made in light of the *NZ King Salmon* and the *Davidson* decisions that the MEP needs amending on the basis of those cases. However, section 81(3) provides a clear direction to MDC that a variation is required.
5. MDC has undertaken a substantial amount of work in respect of its transport bylaw. It would seem appropriate that that work (and the work of others to come through the submission process) be integrated into the MEP. In that way, landscape, natural character, indigenous biodiversity, transport planning and coastal marine management can be dealt with in an integrated way. The variation requested presents an ideal opportunity to complete this integration.
6. Now that the decision versions of the MEP has been officially released, the Burkhart family seek that MDC initiate a process for a Ward coast variation. In addition to this, the Burkhart family intend to join specific appeals on the plan that relate to rules and mapping that will affect access to the coastal marine area from Ward Beach. This is a separate approach that they are taking to address this problem, in order to reserve its position should the Council not address this issue through the variations as set out above.

7. I am happy to discuss further.

Yours faithfully  
**GASCOIGNE WICKS**



**Quentin Davies**  
Partner

**Email |** [qdavies@gwlaw.co.nz](mailto:qdavies@gwlaw.co.nz)