

# **Marlborough Environment Plan**

## **Variation 1 - Aquaculture**

### **Further Information and Evidence - Kenepuru and Central Sounds Residents Association Inc, Clova Bay Residents Association Inc, Guardians of the Sounds Inc ('Associations')**

This statement, evidence and other information is filed jointly by the Associations. References made to a submission filed or to an 'Association' should be read as a reference to each Association and to each submission accordingly.

The purpose of this statement is to address Section 42A report recommendations on the main submission points made by the Association and to consolidate our residual position and the relief that we seek in light of the section 42A reports. To this end we firstly very briefly comment on the Marlborough Aquaculture Rules Working Group and then, through Table 1, summarise our key submission points and relief sought.

We also note that our original submission appears to have been incorporated into a single and very large document which may have rendered it difficult for the panel and other readers to navigate and to differentiate key information from more supportive information. We are also presenting further evidence to our submissions at this point. As such, we consider it appropriate to re-package the Association's submissions, evidence and supporting information into more useable parcels.

Accordingly, we have also taken the time to break our information down into the following parcels:

#### **A – Further Information**

- This Further Information Report and Appendixes - dated 25 October 2021.
- Expert Evidence Report - Natural Landscape and Natural Character Report and Appendix of Dr Mike Steven Dated 21 October 2021.
- Further Information – Shelley King Plastics and Synthetic Report
- Further Information – Adrian Harvey Plastics and Synthetics Report

#### **B – Original Submission Information**

- Original Submission Document - The Original Association 2021 Submission Document (with 6 Appendixes).
- Original Submission Expert Ecological Report - Dr Shaw Mead dated 25 February 2021

- Original Submission Ecological Report Dr Brian Stewart – filed February 2021, dated 3 December 2015
- Original Submission Expert Report on Natural Character and Natural Landscape for Clova Bay - Dr Mike Steven Dated 2 February 2018
- Original Submission – Plastics Pollution Data.
- Original Submission – Dr Shaw Mead Report Supplementary Attachments 1 – 7
- Original Submission – Dr Shaw Mead Supplementary Attachment 8 - Pelorus Hydrodynamic Model 10 June 2015.

Finally, we summarise our submission points with regard to particular AMAs and include as Appendixes AMA illustrations. These do not take account of further adjustments as necessary to meet the ASC Bivalve Standard v 1.1 2019 paragraph 2.2 Pelagic Effects Standard (which have been illustrated in Appendix 6 of our February submission).

## **1. The Marlborough Aquaculture Rules Working Group (MARWG)**

- 1.1 A significant concern of the Association is the chapters' drive to make provision for existing levels of aquaculture without adequate, and sometimes without any, qualification for environmental or amenity values. This inappropriate policy drive was germinated as far back in 2014 and manifested itself as the driving principle of both Council and Industry in the MARWG. The Association represents a significant body of the public and community affected by aquaculture in the Sounds and participated in the MARWG process. Despite consistently voicing its objections throughout this process, these principles prevailed and the bottom line environmental, public access and other amenity values and standards of the New Zealand Coast Policy Statement 2010 ('NZCPS') (outside of areas with outstanding values) were not properly, if at all, considered.
- 1.2 The Association was not prepared to be associated with the inappropriately driven MARWG recommendations. Accordingly, it made its dissenting position clear by filing a dissenting position on the recommendations.
- 1.3 It is apt to repeat the comments of the Minister of Conservation (as they are recorded in the Section 32 Report) following her statutory consultation on the proposed provisions:

*"The Minister noted the information gaps and areas of uncertainty regarding the cumulative effects of human activities, including marine farming, on the marine environment. The Minister also noted the differing views between the members of the MARWG about the proposed approach and on matters of detail, including a dissenting view from the representatives of the Kenepuru & Central Sounds Residents Association. The Minister expects the Council to demonstrate that provisions in the proposed variation address information gaps and areas of uncertainty to the extent needed to ensure that the cumulative effects of marine farming are sustainably managed."*

## 2. Table of Key Issues and Position

2.1 The following table summarises our main submission points, the section 42A response, our comment on the section 42A report response, and the residual remedy, if any, that the Association seeks.

Sub Point Name	Submission Point	Section 42A Reports	Comment on Section 42A Report	Provisions and Remedy
A	<p><b>There is no evidential basis for founding statements and principles made and adopted through the Introduction and Opening Policies and Objectives to the effect that existing aquaculture can and shall be accommodated within the enclosed waters of the Sounds</b></p> <p>There is a long and strong history of historical consenting processes failing to properly address effects, including growing cumulative effects. Refer to Appendix 1 of our February 2021 Submission for some examples. The</p>	<p>Add a comment to Introduction:</p> <p><i>“Council has also adopted an adaptive management approach so that as more monitoring information becomes available about any individual or cumulative effects of marine farming on the coastal environment, the management of marine farms can be adjusted to address this.”</i></p>	<p>This does not appropriately reflect the need to be precautionary in the face of what are unknown but potentially significant adverse ecological effects of existing activity on the indigenous ecosystems, habits and indigenous biodiversity.</p> <p>It is also inappropriate for the provisions to simply presume that other environmental and amenity bottom lines, such as public access and the avoidance of significant natural character and natural landscape effects, will not be defeated by the chapter’s objectives.</p>	<p>Refer to paragraphs 10.1 to 10.3 of our Submission:</p> <ol style="list-style-type: none"> <li>Edit Paragraph 4 of the Introduction as per underlined:  <u>“..occurs in appropriate locations and densities..”</u></li> <li>Edit Paragraph 6 of the Introduction as per underlined:  <u>“Subject to meeting appropriate environmental standards, the proposed new spatial layout....”</u></li> <li>Edit Objective 13.21 as per underlined:  <u>“Provide for marine farming in appropriate locations and densities while....”</u></li> <li>Edit second sentence of first paragraph in the narration to Objective 13.21 as per below:</li> </ol>

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	<p>Introduction and leading Issues and Objectives of the Aquaculture provisions proceed on an assumption that existing aquaculture <i>shall</i> be accommodated.</p> <p>There is no simply no evidential foundation to this significant founding presumption.</p> <p>In the Association's view the MARWG was inappropriately driven by a Council and Industry commonly held agenda to accommodate existing levels of marine farming activity <i>and</i> on a controlled activity basis..</p> <p>It was not an objective process and did not measure existing activity against appropriate environmental and amenity standards.</p>			<p>"The Council has <u>determined that this is best done</u> <del>this</del> through a comprehensive spatial..."</p> <p>5. Edit Policy 13.21.3 as follows:  <u>"To the extent possible within environmental standards and other parameters,</u> AMAs (other than ASAs) are established..."</p>

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B	<p><b>A presumption has been made that there is no risk of significant adverse effects on indigenous ecosystems, habitats or biodiversity.</b></p> <p>The NES will facilitate consent approvals for existing activity within an AMA irrespective of cumulative effects. It anticipates that cumulative adverse ecological effects will have been addressed at a spatial planning level and accordingly anticipates that the precautionary principle will be adopted when determining AMAs if there is uncertainty or a lack of information and potentially significant effects.</p> <p>The enclosed waters of the Sounds are estuaries and accordingly</p>	<p>It is being precautionary to not facilitate any more farming without more knowledge or information on effects.</p> <p>The MARWG took advice from TAG and has followed that advice through proposed Policy 13.22.1 and Method 13.M.37.</p> <p>There is an adaptive management regime for benthic effects proposed.</p> <p>In order to respond to submissions in relation to appropriate management of cumulative adverse effects, Council has sought further advice from experts on to inform the provisions of Variation 1, and we will respond to any new information in the end of hearing report.</p>	<p>There is nothing precautionary about the existing level of farming in low flush but intensively farmed areas.</p> <p>As submitted, the adaptive management regime proposed for benthic effects neither addresses cumulative effects nor addresses water column or food chain effects at all.</p> <p>There is no evidential basis presented from MARWG or TAG to support the Section 42A report proposition that Policy 13.22.1 and Method 13.M.37 adequately address actual or potential water column or food chain adverse effects or that they address cumulative effects at all.</p> <p>This issue is not wide spread. It is contained to some particular areas that are both low flush and intensively farmed.</p> <p>We welcome the initiative from the Section 42A writers to seek more directed expert advice on this issue.</p>	<p>Refer to Section 4 of our Submission.</p> <p>Add new Policy <b>13.21.3.1</b> as per paragraph <b>10.6.2</b> of our Submission – prescribing that AMA size should be determined by reference to paragraph 2.2 of the ASC Bivalve Standard v1.1 March 2019 ('ASC Pelagic Standard').</p> <p>The following AMA's are reduced in size as necessary to avoid potentially significant adverse effects on indigenous ecosystems, habitats and/or natural character (refer to Appendix 6 of our Submission for maximum consentable hectares in the at risk areas):</p> <ul style="list-style-type: none"> <li>• Clova Bay AMA's 2 and 3.</li> <li>• Crail Bay AMA's 6,7,9,10,11 and 12</li> <li>• Beatrix Bay AMA's 6 -15 inclusive</li> <li>• Kauauroa Bay (Maud Island CMU) AMA 13.</li> </ul> <p>An alternative approach would be to adopt an allocation policy whereby authorisations are only issued for the at risk AMA's for activity that is up to the intensity as determined by the ASC Pelagic Standard. We have not explored this remedy further</p>

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	<p>significant adverse effects on their indigenous ecosystems and habitats must be avoided under NZCPS 11.</p> <p>NZCPS 15 also requires that significant adverse effects on natural character values are avoided.</p>			<p>as correcting the AMA's themselves is a simpler and more holistic remedy.</p>
<p><b>C</b></p>	<p><b>A presumption has been made that there are no significant natural character or natural landscape issues.</b></p> <p>The NES will facilitate consent approvals irrespective of cumulative effects and anticipates that significant cumulative adverse effects on natural character or natural landscape values (NZCPS policies 13 and 15) will be avoided through spatial</p>	<p>This does not appear to have been responded to in the Section 42A Reports.</p>	<p>Various areas have been identified as being potentially significantly affected by existing aquaculture activity in Section 42A Reports prepared by Boffa Miskell for the Landscape and Natural Character chapters of the pMEP. These areas and the relevant assessment comments are detailed in <b>Appendix 1</b> to this Statement. The Determination of AMA's in these areas must address the potentially significant degree of these effects.</p>	<p>AMA's in the following CMU's should, at the least and subject to other values such as navigation and ecological, be contained within a band of 100M to 300M from shore as identified as prima facie appropriate in proposed policy 13.21.3(a):</p> <ul style="list-style-type: none"> <li>• Clova Bay</li> <li>• Beatrix Bay</li> <li>• Crail Bay</li> <li>• Kauauroa Bay, Tawhitinui Bay and Tapapa Point in Maud Island CMU</li> </ul>

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	planning at the plan review level.			
<b>D</b>	<b>Clova Bay AMA 1 is not an appropriate area for aquaculture activity.</b>	The appropriateness of this AMA has not been assessed against the detailed information provided with the submission. An expert report on its impact on amenity, natural character and natural landscape values was appended to the submission and appears to have been overlooked. The report writer instead invites further submitters opposing our submission to provide further information.	This proposed AMA is surrounded by ecologically significant area 3.14, is mid-bay and completely outside the 100-300M ribbon, is in direct view of a number of residences, in close proximity to two public boat ramps, two jetties and a number of moorings and it presents a material impediment to both navigation and recreation. It has only been used to a very minor and sporadic extent for many years and has not been used at all in most recent years. It is not an appropriate location for aquaculture. Refer to reports from Dr Mike Steven on natural landscape and natural character dated February 2018 and October 2021.	Remove AMA 1 from the Clova Bay CMU.
<b>E</b>	<b>Clova Bay AMA 3 – Site 8555</b>	The section 42A Report queries Clova Bay AMA 3 against the consented activity at this Site.	Clova Bay AMA 3 is shaped as it is over Site 8555 in order to ensure that there is a navigation channel through the Bay. This is necessary to avoid a speed restriction on boating traffic through the Bay (which requires that boats maintain a 200M distance from structures on either side of their travel path).	Subject to the adjustment as indicated in Appendix 2 (Indicative AMA Maps Excluding ASB Pelagic Standard), and subject to further adjustment as required to meet the ASC Pelagic Standard, Clova Bay AMA 3 as proposed over Site 8555 is appropriate.
<b>F</b>	<b>Unsuitable Areas for Aquaculture Have Not been Identified</b>	Section 42A report suggests that the suitability of areas for marine farming was taken into account by the MARWG and that it is not possible or	References to the MARWG are inappropriate. The KCSRA representative on the MARWG records that Industry simply denied that the yields of any existing sites rendered them unsuitable for a further generation of aquaculture and refused to	Include the following paragraph to Policy 13.21.3:

<b>Sub Point Name</b>	<b>Submission Point</b>	<b>Section 42A Reports</b>	<b>Comment on Section 42A Report</b>	<b>Provisions and Remedy</b>
	<p>The suitability of currently consented but shallow and low flow sites for a further generation of aquaculture has not been tested. The proposals simply assume that all existing consented areas for aquaculture are productive enough to be consented for a future generation of aquaculture.</p>	<p>appropriate for Council to consider the utility or suitability of particular areas for aquaculture activities.</p>	<p>present any data or information to support that denial. Council and Industry consequently included these sites in AMA's for no reason other than because they had existing consents - against the dissenting position of the KCSRA representative.</p> <p>There is no evidential basis for the chapter's presumption that these currently existing sites are appropriate for a future generation of aquaculture.</p> <p>Council has an obligation to identify areas that are not appropriate for aquaculture as this goes to sustainable development and the efficient use and development of natural and physical resources. It has failed to do so.</p>	<p>“(g) within areas with attributes conducive to efficient mariculture, including good water depth, current and quality.”</p> <p>In the absence of information as to their suitability for aquaculture, the following AMA's should be removed as they are in less than 8 meters of water, in very low current areas, and are thus, prima facie, areas that are not conducive to efficient mariculture:</p> <ul style="list-style-type: none"> <li>• Kenepuru Sound CMU: AMA's 6 – 11 inclusive.</li> </ul>
<b>G</b>	<p><b>Mean Low Water Mark Cannot be Accurately Identified in the Mapping</b></p> <p>Mean low water mark cannot be determined from the printed or GIS maps with any reasonable degree of accuracy. Consequently, the location of the inner and outer boundaries of proposed AMA's cannot</p>	<p>The section 42A report records that it would not be simple to more accurately depict mean low water mark on the planning maps as this data is not readily available. Instead, the maps make an estimate of mean low water based on the position of existing marine farms - which are generally supposed to be 50 meters from mean low water mark.</p>	<p>There are many existing marine farms that are currently situated much closer to mean low water mark than 50 meters, some as close as 20 meters. For example, sites 8549 and 8555 in Clova Bay and sites 8526 and 8530 in Crail Bay.</p> <p>The planning maps are consequently not accurate enough for the purpose of determining the placement of a future generation of aquaculture in the Sounds.</p>	<p>The planning maps should be corrected so that they more accurately depict mean low water mark and thus the location of AMA's as intended by the provisions.</p> <p>Failing that, Policy 13.21.3 should be amended by clarifying that the planning maps may not accurately depict distance from mean low water mark and that unless otherwise explicitly stated in the provisions the inner boundary of an AMA commences 100 meters from mean low water mark.</p>



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	<p>be determined from the planning maps with any reasonable degree of accuracy.</p>			
<p><b>H</b></p>	<p><b>Controlled Activity Status for activity in high value public coastal marine space is undemocratic and stands to impede the sustainable management of the coastal marine environment.</b></p> <p>Issue 13N - Uncertainty of future resource consenting outcomes and 'security of occupancy' are <i>not</i> appropriate 'Issues' to lead the aquaculture chapter of the pMEP.</p> <p>Controlled Activity Status cannot be justified for exploitive activities in the coastal marine environment in times of rapidly changing environmental conditions and public values.</p>	<p>The section 42A report suggests that Issue 13N and controlled activity status for existing farms are justified because:</p> <ul style="list-style-type: none"> <li>• the MARWG process determined AMA's thus individual farms are already in locations considered appropriate;</li> <li>• there would be costs incurred if applications had to go through a limited discretion application process.</li> <li>• The industry needs confidence and certainty about where and for how long they can operate and develop.</li> <li>• The public needs certainty about where marine farms are going to be.</li> </ul>	<p>The MARWG was not a public process, it was driven by inappropriate agendas, and there is no evidential basis presented to suggest that AMA's are in fact in appropriate places.</p> <p>At the outset of the MARWG Council tabled controlled activity status to the ARWG as the anticipated outcome. This was never justified to the group and nor was it ever put up as an agenda item for group discussion.</p> <p>There is more to the re-consenting of existing aquaculture than just its location. The NES does limit matters to which discretion can be given, but these nonetheless still include important matters of public value - such as public access through and around coastal marine structures, navigation, visual amenity, noise, and rubbish and debris management.</p> <p>Controlled activity status would, for example, afford no 'stick' with which to adequately manage the very serious plastic and synthetic pollution issue that is emerging with existing aquaculture practices in the Sounds.</p>	<p>Merger rule blocks 16.4 and 16.5 into a single block of Restricted Discretionary Activities.</p> <p>Change the matters over which controlled is reserved in Rules 16.4.3 – 16.4.5 inclusive to matters over which discretion is reserved.</p> <p>Notification is not prohibited for limited discretionary activities unless it is prohibited by the NES.</p>

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	<p>The uncertainty of consenting outcomes is an unavoidable consequence faced by anybody in Zealand undertaking an activity with effects on the environment. It is not a basis for avoiding the basic democratic and environmental processes anticipated by the Resource Management Act 1991.</p>		<p>Controlled activity consents must be granted and accordingly they cannot carry conditions that might effectively frustrate the activity – even if the conditions are necessary to prevent inappropriate pollution of the environment.</p> <p>Avoiding the cost of the process and the possibility of consents being declined are invalid grounds for proposing controlled activity status.</p> <p>Certainty of where aquaculture will occur for both the public and the industry is addressed by the adoption of the AMA regime, not by the adoption of an activity status for activities within those AMA's.</p>	
I	<p><b>CMU's may not be relevant scales from which to assess effects.</b></p> <p>It should be clarified that CMU's are administrative only and do not represent the relevant area or perspective from which the effects of activity within the mapped area should be assessed.</p>	<p>The Part A Section 42A report records that CMU's are more than administrative because they also form a step(s) in the authorisation allocation process and they 'might also be a useful scale' in the assessment of cumulative effects.</p> <p>Records that CMU's have ben informed by objectives and policies of the NZCPS.</p>	<p>Utilising CMU's in the allocation process is an administrative process and thus is an appropriate application of the CMU mapping.</p> <p>We dispute any assertion that CMU's purport to meet NZCPS requirements in terms of scale of effect assessment. There is no evidential basis for this.</p> <p>The scale from which effects are properly assessed is a matter of fact that can only be determined by reference to the particular effects and the particular values that are at issue.</p>	<p>Remove the reference to CMU's in Policies 13.21.5(a), 13.22.1 (iv), 13.22.3(v), 13.22.5(a), 13.22.8(b)(ii).</p> <p>Replace these with references with "the relevant area" or "the relevant area of influence" as appropriate.</p>

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		<p>Accepts that the words 'or wider area of influence' should be added to Policy 13.21.5</p> <p>Volume 4 Section 42A report records that CMU's provide no restrictions to landscape, natural character or benthic assessments.</p>	<p>The chapter, through CMU maps, should not seek to dictate or prescribe a level of scale for any assessment process.</p>	
J	<p><b>Policy 13.21.1 (f) – Unqualified Relocation is inappropriate</b></p> <p>A policy to 'relocate' activity is inappropriate when given naked of any regard to actual or potential environmental effects.</p>	<p>Section 42A report records that any 'relocation' will still need to be consistent with the objectives and policies of the pMEP.</p>	<p>This misses the problem. The problem is that the policy simply assumes, without any environmentally focused evidential support, that all existing activity <i>can</i> be accommodated within the inner Sounds without inappropriately compromising environmental standards and values.</p> <p>Many areas have become over-subscribed through decades of aquaculture mis-management. A 'first come first served' policy of allowing activity without fee or charge has ensured that all places that might be even remotely appropriate for aquaculture have already been applied for.</p> <p>There is accordingly a significant risk that this policy will be unattainable without inappropriately compromising environmental and public values in the Sounds.</p>	<p>Remove paragraph (f) from Policy 13.21.1. A policy desire to provide recompense to displaced existing consent holders (howsoever baseless that of itself may be) is more appropriately addressed though the priority process that is afforded to Authorisations in Policy 13.21.7(b).</p> <p>Alternatively, and at the least, appropriately qualify paragraph (f) as follows:</p> <p>where it is necessary to <del>relocate</del> <u>remove</u> an existing marine farm, or part of an existing Marine Farm from its existing location to manage adverse effects on the natural and human use values of the coastal marine area, <u>where possible within appropriate environmental standards</u> the equivalent amount of space is provided in an AMA in another location.</p>

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K	<p><b>Recognised Navigation Routes in Policy 13.21.3 (V1 AMAs) and 13.21.5 (New AMAs) and 13.21.6 (Offshore CMU)</b></p> <p>Policies 13.21.3 and 13.21.6 refer to avoiding “recognised navigation routes”.</p> <p>Boaties generally navigate the Sounds by travelling in straight lines from one headland or ‘turn point’ to the next. This is called ‘point to point’ navigation. This has generally been recognised when consenting aquaculture historically, with only a small number of aberrations getting through, and accordingly aquaculture structures have generally been kept clear of all such point to point navigation lines.</p>	<p>There is a definition of ‘recognised navigation route’ proposed in another chapter of the pMEP that includes “<i>a safe sea passage commonly used by vessels navigating within the area...and may include routes which are normally used to navigate between popular destinations</i>”</p>	<p>A generic definition of ‘recognised navigation route’ may be appropriate for other functions under the pMEP but it is not appropriate for the purpose of the placement of aquaculture structures. Sounds boaties are accustomed to and anticipate there being no structures in point to point open speed lines of travel and virtually all such navigation lines are followed by vessels from time to time, albeit some more than others.</p> <p>It is thus not appropriate that a definition of ‘recognised navigation route’, for the purposes of the placement of aquaculture structures, be qualified by any references to ‘commonly used’ routes or routes ‘between popular destinations’.</p>	<p>Policies 13.21.3 (c) be amended as follows:</p> <p>“... anchorages of refuge, <del>and</del> recognised navigational routes <u>and any other point to point line of navigation likely to be traversed for open speed navigation</u> where this is necessary to maintain and enhance..”</p> <p>13.21.6 is also amended as follows:</p> <p>“Away from recognised navigational routes (including small craft navigation), <u>and any other point to point line of navigation likely to be traversed for open speed navigation</u>, where this is necessary to facilitate safe navigation”</p>

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	<p>It thus needs to be clarified that for the purposes of 13.21.3 (and by reference Policy 13.21.5 and Policy 13.21.6) that Recognised Navigation Routes encompasses any point to point line of navigation likely to be used for open speed navigation.</p>			
<p><b>L</b></p>	<p><b>Clarify in Policy 13.21.3 that there should be no Speed Restriction created by AMAs</b></p> <p>Neither AMAs created under V1 nor new AMAs created under Policy 21.3.5 should impede public access, recreation or navigation by forcing speed restrictions in otherwise open speed navigation routes.</p>	<p>Section 42A report agrees in regards to Policy 13.21.5 (new AMAs) that aquaculture structures should not effect speed restrictions, and clarifies the wording, but maintains wording that the speed restriction must not be “across the majority of the bay”.</p>	<p>There should also be no speed restrictions created by V1 AMA’s under Policy 13.21.3.</p> <p>It is unclear what “across the majority of the bay” is intended to mean.</p> <p>Any speed restriction on what would otherwise be an open speed navigation route results in vessels having to drop off the plane and then re-gather the plane again once clear of the speed restriction. This is a significant navigation impedance, irrespective of how far the speed restriction must be maintained for.</p>	<p>Amend Policy 13.21.5 (c) (as it is proposed by the Section 42A report) as follows:</p> <p>“...result in adverse effects on any navigable channel, by narrowing it to the extent that it results in speed restrictions <del>across the majority of a bay</del> <u>where the navigable channel would otherwise be open speed.</u></p> <p>Add to Policy 13.21.3 a new paragraph (h) that is the same as the above paragraph (c) of Policy Policy 13.21.5</p>
<p><b>M</b></p>	<p><b>AMA’s should avoid areas important for feeding or breeding for</b></p>	<p>Report writer records that Council manages <i>habitat</i>, not <i>species</i> and notes that effects</p>	<p>Recreational fish have high amenity value in the Sounds and Council has a Part 2 obligation to maintain and enhance amenity values. It also has</p>	<p>Edit Policies 13.21.3 (e) and 13.21.6(c) as follows:</p>

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	<p><b>high value recreational fish species such as blue cod, sole, flounder, snapper, and kahawai.</b></p>	<p>on the habitat of valued fish species are assessed under the Fisheries Act 1996.</p>	<p>an obligation under NZCPS 11 to avoid significant adverse effects and avoid, remedy or mitigate other adverse effects on indigenous ecosystems and habitats of estuaries - which includes the enclosed waters of the Sounds.</p>	<p>“Outside areas known to provide significant feeding or breeding habitat for New Zealand King Shag, elephant fish, dolphins, <u>high value recreational fish such as blue cod, snapper, sole, flounder or kahawai</u>, and other important species.”</p>
<p><b>N</b></p>	<p><b>Policy 13.21.4 should include Pelorus Sound areas with similar qualities to those the policy seeks to protect in the Queen Charlotte Sound</b>, in particular</p> <ul style="list-style-type: none"> <li>• Tuhitarata Bay, in Beatrix Bay</li> <li>• The head waters of Clova Bay</li> <li>• Hopai Bay in Crail Bay</li> <li>• The north side of Kenepuru Sound from Skiddaw Bay around to Mills Bay</li> <li>• The south side of Kenepuru Sound from Broughton Bay to the Kenepuru Heads</li> </ul>	<p>Section 42A report write invites further information to justify the inclusion of these areas in Policy 13.21.4.</p>	<p>In common with the Queen Charlotte Sound areas that have been included in this policy, these Pelorus Sound areas have also already been determined by the operative Marlborough Sounds Resource Management Plan Policy 9.2.2 as being areas where marine farming <i>will have a significant adverse effect on navigational safety, recreational opportunities, natural character, ecological systems, or cultural, residential or amenity values.</i></p> <p>The use and appreciation of these particular Pelorus Sound areas by residents and the wider public has not dissipated since this determination was made by the MSRMP. Rather, the populations and visitor numbers of these areas, and thus the amenity and values held in these areas, has, if anything, since increased.</p> <p>Council presents no evidence to the contrary and it remains a mystery as to why the alignment of these areas along Queen Charlotte Sound for protection purposes is proposed to be removed for this plan.</p>	<p>Add to Policy 13.21.4:</p> <ul style="list-style-type: none"> <li>• Tuhitarata Bay ( in Beatrix Bay);</li> <li>• The head waters of Clova Bay;</li> <li>• Hopai Bay (in Crail Bay);</li> <li>• The north side of Kenepuru Sound from Skiddaw Bay around to Mills Bay;</li> <li>• The south side of Kenepuru Sound from Broughton Bay to the Kenepuru Heads;</li> </ul>

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			<p>Refer also to the extensive other information provided with our submission in regards to the particular issues with AMA 1 in the head of Clova Bay.</p>	
<p><b>O</b></p>	<p><b>Policy 13.21.5 should not facilitate further AMA's within the Enclosed Waters of the Sounds unless it is for an activity that cannot, for biophysical, or hydrodynamic reasons, be undertaken with an existing AMA in the Inner Sounds.</b></p>	<p>Section 42A report writer requests clarification.</p>	<p>A premise of the aquaculture provisions is that the Inner Sounds is full or near full and the public wants certainty over where and how much aquaculture will occur going forward.</p> <p>However, outside of confidence on (as it stands fundamentally ineffective) cumulative ecological effect grounds, Policy 13.21.5 facilitates further AMA's through a plan change that essentially requires nothing more than meeting similar criteria to those as apply under 13.21.3 for AMA's created under Variation 1.</p> <p>This affords no security to the public that if and once cumulative ecological issue comfort is attained it will not once again be confronted with a continuous flow of well resourced templated plan change applications that seek to simply seek more free use of public space to undertake yet more common aquaculture activities.</p> <p>In line with the purported objective of providing 'security for both sides' and encouraging any further activity in the offshore CMUs, new AMA's for the Enclosed Water CMUs should thus be restricted to <i>extra-ordinary activity</i>. This is activity</p>	<p>New Prohibited Activity Rule 16.7.10:</p> <p><u>"16.7.10 Marine farming inside an Enclosed Waters CMU and not in an AMA created under Variation 1, including the associated occupation of space in the coastal marine area, the erection, placement, use of structures, disturbance of the seabed and ancillary discharges to water, and the discharge of feed or medicinal or therapeutic compounds, associated with a marine farm, unless that marine farming cannot, for hydrodynamic or biophysical reasons, be undertaken within any existing Enclosed Waters AMA."</u></p>

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			<p>that cannot, assuming space was available, be undertaken within the existing AMA space in any Enclosed Water CMU. Our suggestion is that this be defined as an activity that cannot, for hydrodynamic or biophysical reasons, be undertaken existing enclosed Water CMUs</p> <p>To be clear, the objective is that applications could not be made for plan changes for new AMA's in the Enclosed Water CMUs where the purpose is the undertaking of yet more traditional mussel farming or other aquaculture activity that could be undertaken within existing AMA areas.</p>	
P	<p><b>There is no effective cumulative ecological effect test in Policy 13.21.5 for new AMAs. The ASC Pelagic Standard should be added.</b></p>	<p>Unable to recommend any changes but will do so when the results of a technical peer review are available.</p>	<p>We welcome the technical peer review.</p>	<p>Add to Policy 13.21.5 the ASC Pelagic Standard as a test in accordance with paragraph 10.6.2 of our V1 Submission.</p>
Q	<p><b>Offshore CMU activity should meet the ASC Pelagic Standard</b></p>	<p>Unable to recommend any changes but will do so when the results of a technical peer review are available.</p>	<p>We welcome the technical peer review.</p>	<p>Add to Policy 13.21.6 the ASC Pelagic Standard as a test in accordance with paragraph 10.6.2 of our V1 Submission.</p>
R	<p><b>The threshold of adverse effects for offshore CMU activity should be no more than minor, not significant.</b></p>	<p>More than minor is too strict when Council is trying to encourage activity into offshore CMUs.</p>	<p>Environmental sacrifice is not an appropriate method of encouraging activity. The threshold for acceptable adverse ecological or amenity effects must be <i>no more than minor</i>, not 'significant'.</p>	<p>Amend paragraphs (g)(ii) and (h) of Policy 13.21.6 as follows:</p> <p>“(g)(ii) reefs, biogenic habitats, cobble habitats or algae beds that may be <u>significantly adversely affected in a more</u></p>



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				<p><u>than minor manner</u> by the operation of a marine farm;</p> <p>(h) In an area where amenity values including visual amenity will not be <u>significantly</u> adversely affected <u>in a more than minor way</u> by lighting, <del>and</del> noise <u>or structures</u> arising from the operation of the subsequent marine farm.</p>
S	<b>Offshore CMU Activity in Proximity to Sensitive Habitat</b>	Recommendations are changes are made so that offshore CMU activity can be facilitated within 20 meters of sensitive ecological environments.	This appears to overlook that currents in offshore CMUs can be quite significant.	<u>Retain</u> the existing 50 meter distance in paragraph (g) of Policy 13.21.6.
T	Policy 13.22.1 does not address cumulative ecological effects.	<p>Relied on TAG advice to the MARWG that the policy addresses cumulative effects and that there is not enough long term data to determine appropriate trigger point for water column or food web effects.</p> <p>Cannot respond to submissions on this until a peer review commissioned as a result of submissions is received.</p>	<p>As already noted, Policy 13.22.1 does not address water column or food web effects at all and nor does it address cumulative benthic effects.</p> <p>We dispute the appropriateness of referencing the MARWG process, there is no expert advice supporting the positions proposed and the need to be precautionary has not been appropriately applied.</p> <p>We welcome the peer review.</p>	<p>Insert new policy as follows:</p> <p><b>Policy 13.22.1A</b></p> <p>Monitoring and management of cumulative pelagic effects of marine farms using conventional longline structures in the enclosed waters of the Marlborough Sounds.</p> <p>(a) In order to manage cumulative adverse water column effects of bivalve and other filter feeding aquaculture in the enclosed waters CMUs, the Council will monitor</p>

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				activity and review consent conditions to ensure that activity meets the pelagic effects standard as prescribed by paragraph 2.2 of the Aquaculture Stewardship Council ASC Bivalve Standard version 1.1 March 2019.
U	<b>Protruding sea anchor screws should be cut off at sea floor level when structures are removed.</b>	Section 42A report proposes accepting a submission from MFA to the effect that the seabed can change and may re-expose a screw anchor even if it was previously cut off at seabed level.	Leaving lengths of metal or other material protruding from the seabed can present a fishing, snorkelling, diving and navigation hazard. The likelihood of previously cut of material being uncovered again seems very low and in any event that is no basis for not cutting them off in the first place.	Retain Policy 13.22.2(b) as notified.
V	<b>Policy 13.22.3(c)(i) Threshold of adverse effects to continue under Adaptive Management should be no more than minor, not 'Significant'.</b>	Section 42 A Report states that the 'significant' threshold of effects is in addition to effect management that will already be occurring through consent conditions and Policy 13.21.2 (Benthic effect standard).	Policy 13.22.3(c)(i) is looking for uncertain or unknown effects or changes that might manifest and so it is not necessarily correct to suggest that they will be addressed or caught under other policies or consent conditions.  In any event this does not seem to condone the facilitation of <i>significant</i> effects before activity needs to stop. The threshold to proceed should be no more than minor adverse effects.	Amend Policy 13.22.3(c)(i) as follows:  “...there are no <u>more than minor</u> <del>significant</del> adverse effects...”
W	<b>Policy 13.22.5(b) Threshold of adverse effects to trigger Review of Consent Conditions should be no more than minor, not 'Significant'.</b>	Section 42 A Report states that the 'significant' threshold of effects is appropriate as effects will have been assessed when consenting.	Consent reviews are about being able to review consent conditions because it may transpire, including through unanticipated events or effects, that the existing conditions are inadequate or appropriate.	Amend Policy 13.22.5(b) as follows:  “Monitoring.....shows <del>significant</del> <u>more than minor</u> adverse ecosystem effects are occurring; or...”

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			<p>The fact the activity was assessed at the time of consent does not diminish the propensity of these eventualities to occur and is no basis for suggesting that adverse effects need to be become <i>significant</i> become consent conditions can be reviewed.</p>	
X	<p><b>Policy 13.22.6 Litter and debris policy should extend to including an obligation on consent holders to cease the use of synthetic products and practices that lead to synthetic pollution.</b></p>	<p>Section 42A report that prohibiting use of plastic and synthetic product would be difficult for Council to manage, monitor and control.</p> <p>Records that if further information becomes available on alternatives products or systems they should be considered.</p>	<p>As it stands Policy 13.22.6 only seeks to encourage consent holders to clean up their waste from the beaches. This has never been effective historically, will never suffice in the future and is a woefully inappropriate response to a serious problem. Even with the very best of intentions, only a very small fraction of the plastic compound that is lost into the marine environment from the existing activity can be practicably recovered. And in any event existing consent holders have no real incentive to collect the pollution that they create.</p> <p>The focus should <i>not</i> be on trying to get the plastic collected from the environment. That is a disabled ambulance at the bottom of a cliff. What is required is a real incentive on consent holders to change the practices and the products that they use in the marine environment.</p>	<p>As recorded in <b>Issue H</b> above, renewal consenting should be <b>limited discretionary</b>, with discretion reserved over the use of plastic or synthetic products where there is a risk of marine pollution. This facilitates declining the re-consenting of a marine farm if an inappropriate risk of plastic marine pollution is presented.</p> <p>Conditions and review conditions on consents should be imposed that seek to achieve the following objectives:</p> <ul style="list-style-type: none"> <li>• The immediate cessation of the (unconsented) practice of mussel buoy clumping; and</li> <li>• The immediate cessation on the practice of cutting plastic or synthetic rope whilst it is outside of the service boat; and</li> <li>• The short-medium term cessation on the use of plastic or synthetic rope to tie</li> </ul>

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				<p>structures in the marine environment; and</p> <ul style="list-style-type: none"> <li>• The short-medium term cessation on the use of plastic structural and growing ropes.</li> </ul>
Y	<p><b>Policy 13.22.7</b></p> <p><b>There should be a policy of facilitating coastal access through a farm at a minimum of 200M intervals.</b></p>	<p>Section 42A Report records that it has an ability to control layout and spacing between farms through resource consent conditions and that is enough.</p>	<p>Some existing farms can be more than a kilometre long and can represent a significant barrier to coastal access if such is not facilitated through a farm. Moreover, some AMAs are over 4km long and there is no impediment to them being allocated and then managed under a single resource consent. Reasonable access to the coast through farms generally occurs by default because lines do not generally exceed 150 meters in length - so access is naturally facilitated through the gap between different blocks of lines within a farm. However, in some instances farms are arranged with lines or blocks of lines that overlap - rendering no or only difficult access through the farm to the Coast.</p> <p>It is no answer to refer to having an ability to control layout through consent conditions. A policy is required to drive the appropriate utilisation of that control measure – particularly given the thrust of these provisions is to remove from the consenting process the eyes and ears of those affected by the resource consents.</p>	<p>Amend Policy 13.22.7 by adding paragraph (h) as follows:</p> <p><u>“(h) that traditional long line structures shall be laid out so that at least one navigable gap of at least 50 metres wide extending from the inside to the outside of the farm is maintained between surface structures for every 200 meters of farm length or structure”</u></p>

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Z	<p><b>Policy 13.22.7 – Noise and Light Pollution from Activities</b></p> <p>There should be more objective restrictions on the undertaking of farm operations when in proximity of populated environments.</p>	<p>Records that the policy already contemplates noise being managed and notes that the rules have been amended to make noise a matter of control or discretion when consenting.</p>	<p>There remains a need for more objective policy direction on what is acceptable noise, particularly in proximity of populated areas. This is all the more pertinent given the thrust of these provisions is to remove from the consenting process the eyes and ears of those affected by the resource consents.</p>	<p>The paragraph 13.22.7 (g) be amended as follows:</p> <p><u>“that farm operations or harvesting be prohibited between the hours of 7:00PM and 7:00AM in Enclosed Water CMUs and that noise and odour from the operation of the marine farm otherwise has no more than minor effects on coastal amenity values.”</u></p>
A1	<p><b>Policy 13.22.8(b) – Adverse effects test of spreading lines over a greater area should be no more than minor, not significant.</b></p> <p><b>Referencing potentially positive effects is both confounding and unnecessary.</b></p> <p><b>Reference to Policy 13.22.1 does not afford appropriate indigenous ecosystem, habitat and biodiversity protection.</b></p>	<p>Section 42A report states effects to consider should be contained to those of the spreading itself and ‘no more than minor’ is a very low bar and may not allow for the consideration of the additional effects of spreading.</p>	<p>The rationale given for a ‘significant’ effect threshold is vague.</p> <p>If bottom lines of effect are already met, such as significant adverse natural character or natural landscape effects, then there is no capacity whatsoever for any further adverse effects, howsoever minor.</p> <p>A threshold of ‘significant effects’ is too lenient and is unacceptable in an environment that is already considered to be at capacity, including from a natural character and natural landscape perspective.</p> <p>Subparagraph (iii) can be read to apply whether or not there are more than minor adverse effects and is thus inappropriate. It is also unnecessary</p>	<p>Amend Policy 13.22.8(b)(iii) be replacing ‘significant’ with ‘more than minor’.</p> <p>Delete paragraph 13.22.8(b)(iii)</p> <p>Edit Subparagraph (c) as follows:</p> <p><i>“..if the monitoring and assessment carried out in accordance with Policy 13.22.1, 13.22.1A and 13.21.3.1...”[reference to ASC Pelagic Standard policies inserted as above]</i></p>

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			<p>because if the net position under subparagraph (ii) is that there are no more than minor adverse effects then the test is met anyway.</p> <p>We welcome the peer review of the ecological effect issues.</p>	
A2	<p><b>Policy 13.22.9 – Change of Species</b></p> <p><b>A change of species must not have a greater adverse effect on the water column or food web than the original species</b></p> <p><b>Some mussel spat catching sites have been consented for the special purpose of spat catching only and changes to any other activity should be prohibited.</b></p>	<p>Section 42A report records that an increase in demand on the water column or foodweb will be picked up through monitoring 13.AER.20 and consent conditions can be changed through 13.22.5.</p> <p>Section 42A report agrees that spat catching sites should not become farming sites and notes that industry have advise of a need for more spat sites.</p>	<p>References to 13.AER.20 and Policy 13.22.5 are inadequate. This is because under the NES the ecological effects of a change in species can only be managed through adaptive management under Clause 18(k) of the NES.</p> <p>Some spat farms are of inordinate sizes and are in inappropriate locations but have been historically consented as such <i>only</i> because of claimed critical shortages of spat supply at the time and their particular spat catching qualities. Examples include Sites 8553 and 8559 in Clova Bay. These areas should be reverted to their natural state if it is no longer critical to have them for their spat catching qualities. They are not appropriate sites for changes in species or activities.</p>	<p>Insert a new Policy 13.22.9A prescribing an adaptive management system for the implementation of a change of species where there are uncertain or unknown effects on the water column or food web from the change of species.</p> <p>Clarify the application of 13.22.9(f) as follows:</p> <p>“The marine farm <u>is</u> currently authorised solely for mussel spat catching purposes or for monitoring purposes. In these cases the <u>purpose and</u> species farmed must remain mussel spat <u>catching only</u> or the purpose must remain as for monitoring purposes <u>only</u>.”</p>
A3	<p><b>Method 13.M.37 should provide for larger scale</b></p>	<p>Section 42A report records no comment on this pending a</p>	<p>Variation 1 presents an opportunity for “large scale manipulated field study” to be undertaken to</p>	<p>Insert the following paragraph in 13.M.37:</p>

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	field manipulation study using areas where activity level is materially altered through the V1 process.	peer review on ecological issues.	help understand the actual effects of intensive bivalve farming in low flush areas. This is recommended to Council in <i>Measuring mussel farming effects on plankton in the Marlborough Sounds</i> Newcombe E, Broekhuizen N 2020.	<u>“Changes in bivalve farming locations or densities that are effected through the Variation 1 process may present valuable opportunities to undertake larger scale field manipulation studies. Council intends to utilise these opportunities to gain valuable empirical information on the actual effects of bivalve farming in low flush Enclosed Water CMU areas.”</u>
A4	<p><b>Policy 13.21.7</b></p> <p><b>1. Authorisation policy should reserve the ability to <u>not</u> authorise occupation of AMA space if necessary or appropriate to manage environmental effects.</b></p> <p><b>2. Authorisation policy should reserve overall discretion to Council when managing the hierarchal allocation process.</b></p>	Section 42A Report records that the adaptive management policies and monitoring methods sufficiently facilitate the management of environmental effects and record that the MARWG has developed AMA’s through a comprehensive process.	<p>AMAs were developed pursuant to a process driven by a Council and Industry agenda of accommodating existing activity and which process failed to adequately account for environmental bottom lines outside of areas considered outstanding. There is no evidential basis to support any claim that the AMAs have been developed through any sort of comprehensive basis.</p> <p>As stated, the provisions as proposed do not address the risk that some AMA’s facilitate inappropriate levels of farming and a precautionary approach is required in this regard.</p> <p>The authorisation policy should contemplate that it may not be appropriate that allocations be made up to the existing level of activity.</p> <p>In our view this issue is best addressed through the process of determining AMAs in the first place</p>	<p>Amend Policy 13.21.7(b) as follows:</p> <p><u>“(b) for space in AMAs created as part of the notified variation to the plan, other than FAMAs, and subject to any need to control or regulate activity in order to manage effects, authorisations for marine farming will be allocated using the methodology set out below as follows. Subject to paragraph (h), Council shall have discretion as to where and to what extent an existing consent holder is granted an allocation right or rights in an AMA. In exercising this discretion Council shall adopt the following principles:”</u></p> <p>Insert <u>“Where possible and to the degree that Council in its discretion determines,”</u> at the start of each of subparagraphs (i) to (iv) of paragraph (b).</p>

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			<p>– as we record above. However, there may be circumstances where management of uncertain or unknown effects could be managed through the authorisation process, such as where an AMA is already determined but it subsequently transpires that fully consenting that AMA would not be appropriate.</p> <p>Policy 13.21.7 also assumes that the AMA space allocation process will run smoothly and amicably through the hierarchal steps anticipated by Policy 13.21.7(b). This may not be the case and the process stands to become frustrated if Council does not reserve control over it. For example, if existing activity cannot be accommodated safely or if space does not transpire as or where anticipated. Nobody has a legal entitlement to a replacement consent and as such, in our view, Council can and should reserve control over the variation 1 allocation process by way of full discretion.</p>	
A5	<p><b>Policy 13.21.7(c) and Rule 16.4.3.1 Transition Period Must Not Facilitate Over-Farming</b></p>	<p>Section 42A Report accept an MFA submission to allow a 24 month transition period pursuant to which both newly occupied AMA space and old space may be occupied.</p>	<p>It may be appropriate that in some instances existing lines be left to harvest before they are removed – and 24 months may be required for that.</p> <p>However, is it not appropriate that at the same time newly created lines under the authorisation</p>	<p>Amend Policy 13.21.7(c) (as recommended by Section 42A Report) as follows:</p> <p>“In the circumstances set out in (b) (ii) to (iv) above, authorisations will be issued with conditions requiring the expiry or surrender of the Existing Marine Farm consents within 24 months of the new resource consents</p>



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			<p>consent are put into production as this is likely to have adverse environmental effects.</p>	<p>under authorisation being exercised <u>along with an accordant restriction on the use of any new farm space if and to the extent that old farm space remains in use over that 24 month transition period.</u>"</p> <p>Amend Rule 16.4.3.1A (as recommended by Section 42A Report) as follows</p> <p>"...permit the authorisation replaces will be surrendered no later than 24 months after the commencement of the permit if the application is granted under the authorisation is granted- <u>and that new farm space will not be used if and to the extent that old farm space remains in use over that 24 month period.</u>"</p>
A6	<p><b>Tendering of authorisation must be foreshadowed for the future</b></p>	<p>Section 42A Report records that plan review must occur every 10 years and that it will be 20 years before current generation of consents expire - and that is too far away to be of concern for this plan generation.</p>	<p>Tendering authorisations is the preferred allocation method under the RMA (section 165H(1)(a)(iii)), as it ensures that resources are allocated both efficiently and equitably. Disruption to the Industry is the only reason proffered for tendering not being adopted under V1. Whilst we accept that disruption is a consideration, we dispute that it is sufficient justification for not tendering allocations under V1.</p> <p>Council has been planning new aquaculture rules for more than a decade and tendering has never</p>	<p>Insert the following paragraph into Policy 13.21.7:</p> <p><u>"(g) Allocations for second term resource consents in AMAs created as part of the notified variation to the plan or by private plan change shall be publicly tendered."</u></p>

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			<p>been publicly considered. In our view this is a significant policy failure.</p> <p>Resource consents to farm mussels in the enclosed waters of the Sounds are estimated to now be valued at around \$150,000 per hectare. The existing 'first served' system and the proposed 'modified grand-parented first serve system' under V1 are responsible for putting significant pressure on both the public and the Council - as well-resourced applicants continuously push to avail themselves of more free use of highly valued public resources.</p> <p>For 3,000 hectares of space and using a conservative yield of 7%, a \$150,00 value per hectare converts into an annual rental yield under a tendering system of around <b>\$31.5M</b> – 50% of which would go to Council.</p> <p>Market tendering of allocations will not affect the amount of space available and so will not affect economic activity.</p> <p>It is significant that public tendering has not been adequately considered under V1. It would be even more significant if the likelihood of tendering was not foreshadowed for the future - so that industry disruption could not once again be presented as</p>	

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			<p>an impediment to the adoption of a more efficient and equitable allocation regime.</p> <p>It matters not that it might be too early to influence the next plan - it is now or never. What is important is that the alert is now made to the effect that, as it stands, public tendering will be, or is likely to be, the preferred allocation option for the next round of allocations and consent renewals.</p>	
A7	<p><b>Control Must be Reserved Over the Inappropriate Continuation of Activity in Advance of Plan Review</b></p>	<p>Section 42A Report records that plan reviews must occur every 10 years and that it will be 20 years before the current generation of consents expire - so perpetuation of inappropriate activity is not a concern for this plan review.</p>	<p>The new variation 1 and NES regime anticipate many public value matters and all cumulative effect matters being fully and properly managed at the plan review level. This must not be frustrated by inappropriate consent renewals in advance of plan reviews occurring.</p> <p>The existing plan and aquaculture rules have been in place for almost 30 years and it would be reckless to simply assume that the Variation 1 provisions for aquaculture rules will be reviewed before the 20 year consent terms facilitated by the Variation 1 process expire.</p> <p>In any event, as it stands renewals can be facilitated in advance of even a 10 year plan review occurring - which would see public values</p>	<p>Insert New Policy 13.21.7(l):</p> <p><u>“Authorisations will not be issued if:</u></p> <ul style="list-style-type: none"> <li>a) <u>It is to re-consent activity in an AMA and;</u></li> <li>b) <u>there is at least 5 years remaining on the existing consent term; and</u></li> <li>c) <u>The new consent term is likely to extend into a period when reviewed aquaculture provisions have legal effect”</u></li> </ul> <p>Insert New Policy 13.22.10:</p> <p><u>“A consent term of less than 20 years will be adopted where:</u></p> <ul style="list-style-type: none"> <li>a) <u>Re-consenting activity in an AMA; and</u></li> </ul>

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			<p>and cumulative effects issues being rendered beyond consideration for at least <u>30 years</u>.</p> <p>This is unacceptable in in the face of a rapidly deteriorating environment and changing public values.</p> <p>Control over inappropriate consent renewals could be effected through consent term policy or allocation policy.</p> <p>Allocation policy might be appropriate where a new consent is sought but the existing consent is not due to expire. Shorter term policy under section 123A(2)(b) of the RMA might be appropriate where consent renewal is sought and the existing consent is due to expire.</p> <p>We suggest that provision be made for both so as to ensure the tools are available if and when required.</p>	<p>b) <u>A 20 year term is likely to extend into a period when reviewed aquaculture provisions have legal effect;</u></p> <p>c) <u>A reduced term is necessary to ensure that adverse effects on the environment are adequately managed."</u></p>
A8	<p><b>It should be clarified that Rules 16.4.3.6;, 16.4.4.6; 16.4.5.7;16.5.2.4;16.5.3.5 and 16.5.4.7 are intended to facilitate control or discretion to ensure adequate access through a farm as well as in the vicinity of a farm.</b></p>	<p>Section 42A Report states that the existing provisions facilitate sufficient control to manage effects on public access and navigation and would provide the relief sought by submitters (which is coastal access through a farm</p>	<p>The provisions talk about public access in the vicinity of the farm but not through it. It is necessary to clarify that 'in the vicinity' includes 'though' to avoid doubt.</p> <p>This works in conjunction with new policy to ensure adequate public access through farms as we proposes in Sub Point Y Above.</p>	<p>Amend Rules 16.4.3.6; 16.4.4.6; 16.4.5.7; 16.5.2.4; 16.5.3.5 and 16.5.4.7 as follows:</p> <p>"...in the vicinity of <u>and through</u> the marine farm.."</p>

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		at a minimum of 200m intervals).		
<b>A9</b>	<b>Rule Measures to control Noise should include Restricted Discretionary Activities as well</b>	Section 42A Report proposes new provision in Rules 16.4.3; 16.4.4 and 16.4.5 to enable control over noise.	This is welcomed and is informed by our proposed Policy in Sub Point <b>Z</b> above. However, it should also be extended to restricted discretionary activities in Rules 16.5.2; 16.5.3 and 16.5.4.	Add to rules 16.5.2, 16.5.3 and 16.5.4 the following rule:  <u>“Measures to control noise from the operation and harvest of the marine farm.”</u>
<b>A10</b>	<b>Rules 16.5.2 and 16.5.3 should include a human use values test</b>	Section 42A report records this is not required because 16.5.2 and 16.5.3 are about farms going into new ASAs or AMAs that should have considered natural character, natural landscape, ecological and other effects when being created.	The fact an AMA or ASA is new does not necessarily mean that consideration has been given to the effects of all potential activity within it. For example, the rules contemplate an assessment of human use values where an existing activity is expanded within an AMA (Rule 16.5.4) but not if that same space is applied for by way of new farm activity (Rule 16.5.3) instead of a ‘spreading’ activity.	Add the following matter of discretion to Rules 16.5.2 and 16.5.3:  <u>“The effects of the activity, including effects on the natural and human use values of the coastal environment, and on the characteristics and values of any adjacent area identified as an Outstanding Natural Landscape in Appendix 1”</u>

### 3. Proposed AMAs

- 3.1 We have reviewed the section 42A report on AMAs and it appears that the writer has generally accepted submissions to increase or change AMAs size where such is ‘necessary’ to accommodate existing activity, notwithstanding that there may be more than minor, or indeed significant, actual or potential adverse effects on environmental or amenity values from the proposed AMA.
- 3.2 In our view the following principles are appropriate drivers for the determination of AMAs but have *not* been followed by the section 42A report writer. As we have also expressed, neither have these principles been followed by the AMAs as proposed by Council in the notified provisions.
- 3.3 Our comments are directly primarily at the Beatrix Basin (Beatrix Bay, Kauauroa Bay, Crail Bay and Clova Bay) and the Kenepuru Sound - but of course do have general application across the enclosed water CMUs.

- a. There is no NZCPS 2010 13.1(b) or 15(b) test for significant natural character or natural landscape effects in this Policy and no ability to manage these at a consenting level. Protection from these effects must necessarily be effected at the AMA level.
- b. In accordance with Policy 13.21.3(a) – AMA’s will generally be appropriate if maintained within a ribbon 100m-300m from mean low water mark. In our view it follows from 1. Above that activity beyond this ribbon is prima facie inappropriate on natural character and natural landscape grounds.
- c. There is no test for significant actual or potential indigenous ecosystem, habitat or biodiversity effects. These must be avoided under NZCPS 13.1(b) and 11.b.iii (the enclosed waters are estuaries). There is no ability to adopt a precautionary approach with these effects at the consenting level. As such, this must necessarily be done at the AMA level.
- d. Navigable channels should be 450 meters wide to facilitate a 50 meter navigation path that is 200 meters clear of structures on either side.
- e. Structures should not be located within point to point lines that are likely to be utilised for open speed navigation.
- f. AMA’s should not be facilitated in low flush shallow waters,

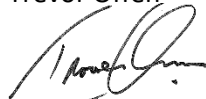
3.4 We these principles in mind we take the following position in response to the AMA’s as notified by Council and the recommendations as made in the section 42A report with regard to AMA’s in Beatrix Bay, Kauauroa Bay, Clova Bay, Crail Bay and the Kenepuru Sound.

- No AMAs should be excepted from the 100m *inner* mark in these areas. This is for consistency of form and navigational safety. This includes proposed Beatrix Bay AMAs 9 and 12 which appear to be situated inside the 100m mark.
- In accordance with the advice of James Bentely dated 5 April 2019, structures should be avoided adjacent to Te Puraka Point and Whakamawahi Point as these are outstanding natural landscapes and features. As recommended in that report, activity in these AMAs should, at the least, not be expanded and should be contained to the 100m-300m ribbon. This is directed at Beatrix Bay AMAs 1,2, 3,15,16 and FinFish 16 and applies also to Clova Bay AMA 4; Crail Bay AMA 18, Maud Island AMA 13 (Kauauroa Bay) and Kenepuru AMA 6 - as these are also adjacent to outstanding natural landscapes or features. We have indicated AMAs for Beatrix Bay in accordance with this in Appendix 2. Note this illustration does account for meeting the ASC Pelagic Standard.
- There should be no AMA for Sites 8258 and 8259 (Tuhitarata Bay). With regard to Site 8259, it is currently in a coastal marine 1 Zone, which the operative plan has already assessed as being inappropriate for aquaculture. We understand that this Site is also located over sensitive habitat. The site is also adjacent a coastal living zone and an area of outstanding natural landscape or feature. The bay also has high recreational value. Site 8258 would be double parking which presents navigation, natural character and natural landscape issues and is contrary to proposed Policy 13.21.3.
- AMAs should not be facilitated in shallow low flush areas, let alone increased. This is directed at Kenepuru AMAs 7 – 11 inclusive. These should be removed.
- Beatrix Bay AMAs 6 – 15 inclusive must *also* be limited in size in order to meet the ecological carrying capacity as determined by the ASC Pelagic Standard (refer to Appendix 6 of our February Submission). Note that this should be determined after firstly adjusting for the other AMA reductions as proposed herein. It is nonetheless clear that there is no ecological carrying capacity to facilitate any of these AMA’s being outside of the preferred

ribbon of 100m-300m from shore. This includes Site 8248 in Beatrix Bay which has recently been varied to facilitate mussel growing. This was not contemplated in our February 2021 submission. Accordingly, any AMA for this site should be contained to the 100 - 300 meter ribbon and the filtration capacity of the other AMAs in Beatrix Bay AMAs 6 - 15 inclusive will need to be adjusted to account for activity at this site as well.

- Kauauroa AMA 13 (Maud Island CMU) is contained within 100 – 300 meters and is also reduced to meet the ASC ecological carrying capacity standard as per Appendix 6 of our February 2021 Submission.
- Crail Bay AMAs 6 – 12 inclusive are limited in size to meet the ASC ecological carrying capacity standard as per our February 2021 submission.
- Clova Bay AMA 1 should be removed for the reasons given in our February 2021 submission and as recommended in the reports of Dr Mike Steven dated 2 February 2018 and 21 October 2021. We note that the report from Dr Mike Steven dated 2 February 2018 appears to have been overlooked by the section 42A report writer.
- Clova Bay AMAs 2 and 3 should be limited in size to facilitate a clear navigable route through the bay of at least 450 meters wide – as per the attached illustration in **Appendix 2**.
- Clova Bay AMA's 2 and 3 should be contained to no more than a 100m to 300m ribbon in order to address significant natural landscape, natural character and amenity issues in accordance with the advice of Dr Mike Steven dated 21 October 2021. This includes a significant reduction in AMA 3 over Site 8559 so as to sit within the preferred 100m-300m ribbon. This is because this site was consented in its inordinate size and location (which presents significant natural character, natural landscape and navigation issues) only because of a claimed critical need for mussel spat and the apparent particular utility of this site for spat catching purposes. That utility appears to have dissipated (refer to application filed June 2021 to vary the purpose the consent over Site 8559 due to its reduced utility for catching spat).
- To the extent not already accommodated with other amenity and value considerations above, Clova Bay AMAs 2 and 3 are also limited in size to meet the ASC Pelagic Standard – as per Appendix 6 of our February 2021 submission.
- Clova Bay AMA 2 over site 8547 should be removed as it was consented because of an apparent critical need for mussel spat and the claimed particular utility of this site for spat catching purposes. This utility appears to have dissipated (refer to the application to vary the purpose of the consent over Site 8555 above) and the structures, when in place from January to July, breach navigation lines and are a navigation hazard.

Sincerely  
Trevor Offen



Chairman

Clova Bay Residents Association

And for and on behalf of Kenepuru and Central Sounds Residents Association Inc and Guardians of the Sounds Inc.

25 October 2021

## APPENDIX 1

### Extracts from Boffa Miskell Section 42A Reports on Natural Character and Natural Landscape Chapters for Marlborough Environment Plan

	<b>NATURAL CHARACTER</b>
Description	Section 42A Report Reference
<b>Squally Cove, Oyster Bay, Wairangi Bay and Whakitenga Bay.</b>	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.”
<b>Melville Cove (Port Gore)</b>	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.”
<b>Anakoa Bay</b>	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.”
<b>White Horse Rock/ Burnt Point</b>	Page 39 “The salmon farm located immediately offshore has prevented the foreshore from also being considered high”
<b>Horseshoe Bay</b>	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.”
<b>Canoe Bay and Camel Point</b>	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.”
<b>Forsyth Bay</b>	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.”
<b>Crail/Clova Bays</b>	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).”
<b>Beatrix Bay</b>	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 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).”
<b>East Bay QC Sound</b>	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.”

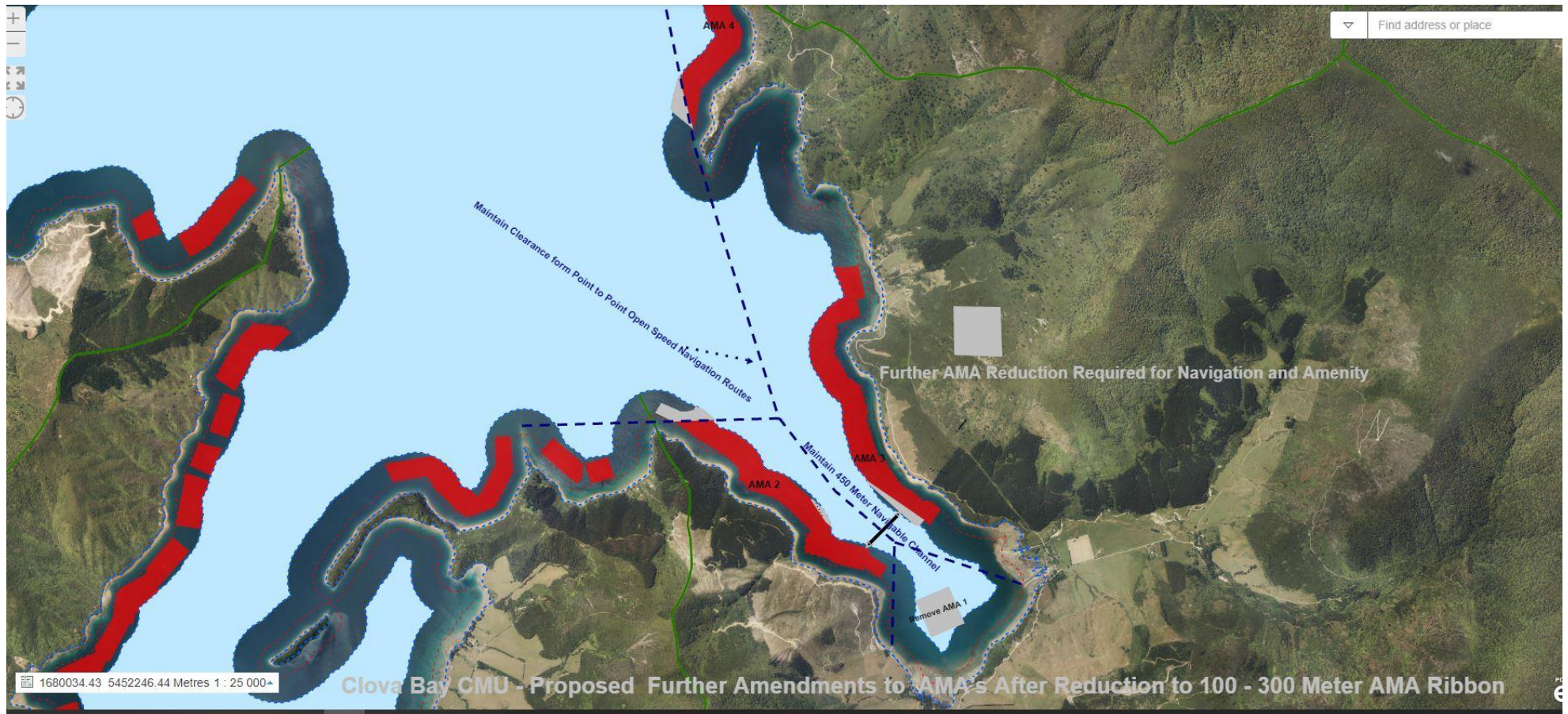


<b>Tory Channel</b>	Page 58 “Regarding modifications, all mussel farms and two existing salmon farms have been excluded from the mapping, with the recently consented third farm (Ngamahau) now requiring to be excluded. This will result in a small mapping change”
<b>LANDSCAPE</b>	
<b>Waihinau Bay, Port Ligar and most of Forsyth Bay/ Orchard Bay.</b>	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”
<b>Inner Admiralty Bay</b>	Page 27 “Sufficient modification within the inner bay, including the presence of aquaculture has prevented much of this from being outstanding.”
<b>Waitata - Hamilton Bay</b>	Page 28 “The extent of the ONL/ONF mapping in the marine area has been restricted by the presence of the aquaculture”
<b>Kauauroa Bay, Tawhitinui Bay and around Tapapa Point</b>	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”
<b>Western Beatrix Bay – Whakamawahi Peninsula</b>	Page 31 “The aquaculture that is aligned along its foreshore has foreshortened the outstanding overlay from extending further into the waters of the bay.
<b>Tawero Point</b>	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.
<b>Okiwi Bay</b>	Page 34 “the removal of the ONL mapping where it overlays with marine farm 8592”.
<b>Tennyson Inlet</b>	Page 35 “a slight adjustment to the extent of the ONL boundary to avoid the current overlap with mussel farm 8203.”
<b>Fairy Bay</b>	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 cohesion of the broader overlay.”
<b>Port Gore – Melville Cove</b>	Page 42 “The cumulative modification bought about by aquaculture in Melville Cove has prevented this area from reaching the ‘is the water natural enough’ to be considered outstanding.”
<b>Te Puraka Point to Waimaru Bay</b>	Page 44 “Aquaculture located around these features has prevented much of the seascape from being mapped.”.
<b>East Bay QC Sound</b>	Page 46 “The seascape mapping in this area has avoided the areas of aquaculture”
<b>Port Underwood</b>	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.”

## APPENDIX 2

### AMA Structure for Clova Bay

This illustrates AMAs limits, including containment to between 100m and 300m from MLWM, but before accounting for ASC Pelagic Standard requirements.





### AMA Structure for Beatrix Bay

This illustrates appropriate AMAs limits, including containment to between 100m and 300m from MLWM, but before accounting for ASC Pelagic Standard requirements.

