**Port Underwood Association’s submission:**

**Reviewing Marlborough’s regional policy statement and resource management plans:**

**Draft policy provisions for marine farming for public consultation**

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The Port Underwood Assocaition thanks the Marlborough District Council for the opportunity to respond to the Marlborough’s regional policy statement and resource management plans in respect to marine farming. The submission by the association has general application to the review, but there is an emphasis on the Port Underwood area.

**Summary of our submission**

**Activity status**

Marine farms should have discretionary activity status, not controlled activity status:

* Recognition of the benefit of the industry and certainty in the industry is already served by a discretionary status system;
* Current lack of knowledge of the Sounds ecosystem precludes establishing activities with the permanence of a controlled status;
* The coastal marine area is public domain that is used or valued for a range of different reasons. The coastal environment is of a dynamic nature, and is constantly changing; and
* Controlled status for mussel farms is inconsistent with the discretionary status for other coastal permits such as moorings and jetties.

**Marine farm size**

A stronger policy in respect of the size of marine farms:

New marine farms and new extensions are to be prohibited within 100 metres of the coastline; and

Marine farms should not extend beyond 250 meters from the coastline.

This will provide to the location of new marine farm applications thus avoiding future conflicts.

The proposal for an extension of marine farms to 300 meters from the shoreline should not be permitted until independent studies are undertaken to demonstrate that this does not have an adverse impact upon:

* Other uses, such as recreational use and commercial and recreational fishing; and
* The environment through increased pollution, reduction in water quality and other adverse impacts.

**Extent of use of Port Underwood by marine farms**

The mid-bay area of Port Underwood and the entire western coastline of Port Underwood should have a prohibited marine farming status to be consistent with Policy 1.12 of the proposed Marine Farming Policy and other sections of the draft policy statement and management plan. This would add more certainty for all users of Port Underwood and reduce the large amounts of time and money spent by applicants, submitters, and the Council.

The mid-bay area of Port Underwood should have a prohibited marine farming status because:

* There is a frequent and varied usage of the mid-bay of Port Underwood by commercial, recreational and tourist boats which would be impeded and restricted by the establishment of marine farming in the mid-bay area of the Port;
* Recreational and commercial fishing takes place in the mid-bay areas;
* Marine mammals are frequently observed in the mid-bay area of Port Underwood;
* Marine farming in the middle of Port Underwood would have a much more than minor impact on the visual amenity;
* Past marine farming applications in the mid-bay area have been withdrawn and no recent applications have been lodged; and
* Not including the mid-bay area of Port Underwood in the overlay for prohibited marine farm areas would be inconsistent with Policy 1.12 of the provisions for marine farming and with the proposal to include other Sounds mid-bay areas in the plan.

The entire western coastline of Port Underwood should have prohibited marine farming status. Retaining a small section with CMZ 2 status as currently proposed would be an inconsistent anomaly.

* Not including the greater Rangitane Bay area in Port Underwood as a prohibited area in the Prohibited Marine Farming Overlay when the area contains the same attributes as the surrounding areas, which are proposed to be prohibited, is an anomaly and an inconsistency with Policy 1.12 in the proposed provisions for marine farming contained in this plan;
* The process of gazetting an area for Iwi marine farm allocation does not require or infer that the site is suitable for a marine farm operation or that it meets the requirements of the District plan. It merely prohibits other usage of the space. There exist other options for fulfilling the Iwi marine farming obligations other that a mussel farm at this site;
* Historic mussel farm applications at this site have received recommendations by the Council planner to be declined; and
* A logical assessment of the extreme conditions which occur at this site and the studies made by experienced marine farmers indicate that this is not a good site for growing mussels.

**Environmental impact studies**

The regional policy statement and resource management plan should include a provision to require environmental studies to be undertaken to:

* Determine the level of nutrients in the Sounds
* Determine the level of pollutants in the Sounds
* Determine the impact on nutrients and pollutants to understand the capacity for further marine farming and its impact upon other uses of the Sounds
* Determine the change in levels of nutrients and pollutants in the Sounds subsequent to the introduction of new farms or expansion of existing farms.

Without these studies there will be little understanding of the cumulative impacts of aquaculture and the objective of the Marlborough regional policy statement cannot be met. Section 5.3.2 states that “…water quality in the costal marine are be managed at a level that provides for the sustainable management of the marine ecosystem.”

The Port Underwood Association, therefore, submits that the proposed policy statement and resource management plan does not meet the standards required by the Resource Managemnt Act 1991 nor the NZ Coastal Policy Statement 2010. The policy statement and management plan has not ensured sustainable management of the coastal marine area nor monitored the marine environment sufficiently. Consequently, the policy statement and management plan should be modified to enable it to comply.

**Other matters**

The actions available following marine farm monitoring should include the ability to remove the marine farm.

An addition to paragrpah four of issue 5.A has been suggested by the association.

**Discussion**

**Activity status for mussel farms**

The reasoning for changing existing mussel farms to a controlled status seems to be based on the ideas of recognising the benefits of mussel farming to the Marlborough community and of offering certainty to the mussel farming industry. Changing mussel farms to a controlled status is not necessary to accomplish either of these aspirations. Making a large area of the Marlborough Sounds available for mussel farm applications and the fact that approximately 3000 hectares of public space has been granted for mussel farming is a strong statement of support for mussel farming and recognition of its importance. For example, close to 50% of the coastline in Port Underwood is fronted by mussel farms and this has been achieved without controlled status.

 In addition, consents for periods of 20 years for each site and the large size of the overall industry provides a significant level of certainty for those involved in the industry. It is not understood how legislative changes provide any extra degree of certainty. The 20 year consent provides a greater degree of certainty for production and it is suggested that other factors, other than tenure, such as pollution, forestry run-off, marketing, etc. provides the industry with greater concerns for certainty. Consequently, the change in legislative environment is not required.

A controlled status could in the future impact job opportunities in areas other than marine farming by reducing amenity values and potentially impacting the tourist industry or preventing more productive use of the area and jobs that are not currently foreseen.

There is a lack of knowledge of the marine ecosystem and the interaction of the various uses. This is a compelling reason why controlled activity status should not be applied to mussel farms. In addition, the discussion in the consultation paper (section 5.5) for limiting the consent period to 20 years provides further reasons for not changing the status to a controlled activity:

* The coastal marine area is public domain that is used or valued for a range of different reasons;
* There are growing pressures and increasing demand for coastal space;
* There are changing and challenging issues facing use of coastal resources;
* The coastal environment is of a dynamic nature, constantly changing; and
* Matters of national importance in the RMA need to be recognised and provided for on an ongoing basis.

In addition, the granting of controlled status to mussel farms is inconsistent with the granting of other coastal permits such as moorings and jetties which are discretionary. These permits for these activities have more certainty of impact and affect a much smaller footprint of public space. It would appear capricious to permit marine farms to be granted controlled status when others less invasive activities are not.

For these reasons the Association submits that marine farms should have discretionary not contolled status.

**Location of marine farms in relation to the coastline**

*Policy 1.7 –Within areas of the Marlborough Sounds marine farming within 100 metres of mean low water springs and/or beyond 300 metres from mean low water springs will generally be regarded as an inappropriate activity*.

The above policy seems to be very loosely written and will leave the door open for further applications within 100 metres and beyond 300 metres. It would be better to state that new farms and new extensions are prohibited within 100 metres and beyond 300 metres. Regarding existing farms and extensions, it should be **required** that any space within 100 metres of low water must be given up when any area between 200 and 300 metres is added.

The concept of moving marine farms further out from the coastline from 50 to 100 meters is a good idea for the recognised reasons. Consequently, the Association supports the proposal that the ribbon for development for marine farms should commence at 100 meters.

It is recognised that the loss of area from 50 meters to 100 meters should be compensated for. Thus, the Association supports and extension of the ribbon from 200 to 250 meters. This maintains the depth of the ribbon that can be used by marine farms at 150 meters. The Association does not, however, support the extension of the ribbon from 250 to 300 meters. This is an expansion of use from 150 meters depth to 200 meters depth, and increase of 331/3%. There is no compelling reason for such an expansion without first undertaking an assessment of the impact upon environmental and other uses in the Sounds area. The impact of the proposed expansion is unilateral and the effect on other users has not been considered. In addition, there are many areas in the sounds that are less than 600 meters in width; for example in Port Underwood, Ngakuta Bay and Hakana Bay. Permitting expansion to 300 meters on each side will block thee bays and severely restrict access to other bays.

The increase in the range of the ribbon will also increase the depth of the the water column impacted by the marine farm. The increased ribbon will extend the marine farms into deeper waters and allow the marine farm to use longer lines and grow more mussels. Consequently, there will be a significant increase in size in the farms. With the ribbon expanding by 331/3%, and the increased depth it is suggested that the expansion will be in excess of 50%. This substantial increase can only create severe adverse ecological impacts even if no new farms are permitted nor existing farms expanded. It is submitted that the proposal for the increase does not meet the requirements of the Resource Management Act 1991 nor the New Zealand Coastal Policy Statement 2010 that requires the Council to both monitor the long term-impacts of marine farms and also to sustainably manage the marine econsystem.

In addition, it would be considered prudent for there to be a review of environmental impacts for such a large expansion of the area to be farmed. In restricted areas that do not benefit from tidal flows such an expansion will undoubtedly cause increased deposits of faecal matter, shell and other detritus from the marine farms. Port Underwood has several marine farms in areas that benefit from little tidal flow (such as the east side of the tounge at the north end of Port Underwood. Expansion of the ribbon in this area can only lead to severe depletion of nutrients (adversely impacting fish stocks) and increase in marine farm detritus. In addition, it is recognised by the Ministry or Primary Industries that marine farms “effect” fish stocks (as the filter feeders consume fish eggs and larvae). This will have a detrimental impact upon fish levels and diversity with a consequent impact upon recreational and commerical fishing. Consequently, the Association opposes the expansion of the ribbon beyond 250 meters.

**Changes to the draft Prohibited Marine Farming overlay in Port Underwood**

Current draft Prohibited Marine Farming Overlay in the proposed Marlborough Plan

The proposed draft overlay as presented to the Sounds Advisory Group on 24 June,2014 contains the areas which are currently designated as CMZ1. There have been proposed additions to that CMZ1 status in Port Underwood to include the area around Robinson Point and along the southwest coastline from Ocean Bay to Rarangi with an exception of a gap just south of Ocean Bay which, although not completely accurate, will be referred to as the greater Rangitane Bay. The draft overlay also contains mid-bay areas in other parts of the Marlborough Sounds which are proposed to become prohibited areas for marine farming however the mid-bay area of Port Underwood has not been included to become prohibited.

Reasons for the current CMZ1 areas

The reasons for the current CMZ1 areas in Port Underwood include sites of Iwi importance and areas of residential activity and recreational use.

Reasons for the additional prohibited areas in the draft Prohibited Marine Farming Overlay

The area around Robertson Point is designated Outstanding Natural Landscape and the southwest coastline has been recognised for its valuable natural seascape and landscape values and have thus been added to the prohibited area. The area just south of Ocean Bay has not been included as there is a gazetted site for iwi marine farm allocation located there.

**The Port Underwood Association submits that the prohibited marine farming overlay should include the mid-bay of Port Underwood for the following reasons.**

Current boat usage of the mid-bay area of Port Underwood

The mid-bay area of Port Underwood is currently used by a variety of boating traffic. Many recreational boats using Port Underwood put in at the boat ramp in Oyster Bay, and other bays, and, therefore, travel through the mid-bay area to access the outer part of Port Underwood or to go out to the Cook Strait coastline. Private boats travelling along the New Zealand coast or travelling over from Wellington will come into Port Underwood as an overnight, or longer, anchorage.

A number of commercial fishing boats are based in Oyster Bay and use the mid-bay area when heading out to Cook Strait for trawling or crayfishing. Trawling also takes place in the mid-bay area of Port Underwood by these local boats and fishing boats from other areas. In addition, the mussel farm harvesters also ply back and forth through the centre of the Port. Larger commercial fishing boats will come into Port Underwood to pick up supplies at Oyster Bay and on occasion drop off personnel in cases of medical emergencies. As the normal anchorage bays have been filling up with mussel farms, both recreational and commercial fishing boats are now anchoring overnight in the middle of Port Underwood.

Occasionally the smaller tourist cruise boats or the Spirit of New Zealand training boat will come through the mid-bay area of Port Underwood for an evening dinner stop or an overnight stay.

Recreational fishing

Recreational fishing for kawhai, red cod and flatfish occurs in the mid-bay area.

Marine mammals

A large variety of marine mammals including common, bottlenose, dusky, Hector dolphins and Orcas frequently use the mid-bay area.

Visual amenity

Marine farms in the middle of Port Underwood would not blend in and would be visually degrading to the Port.

History of mid-bay mussel farm applications in Port Underwood

There is a history of mussel farm applications, in the “goldrush” days, in the mid-bay area of Port Underwood, all of which were either declined or withdrawn as being inappropriate. There have been no recent applications for marine farms in the mid-bay even though it is in CMZ2 and applications could have been made. Some of the more recent marine farm applications in the coastal ribbon area claim to have made extensive studies of the available space in Port Underwood. None of them found the mid-bay area to be appropriate for mussel farming.

Consistency in the proposed Prohibited Marine Farming Overlay

It would appear that Port Underwood would have many of the same attributes as the other bays for which the mid-bay area is proposed to have prohibited status in the proposed Prohibited Marine Farming Overlay. It would therefore seem that for consistency Port Underwood should have the same mid-bay prohibited status.

**The Port Underwood Association submits that the Prohibited Marine Farm Overlay should include all of the western coastline of Port Underwood as far South as Rarangi**

Reasons why the omitted area south of Ocean Bay (the greater Rangitane Bay) should be part of the prohibited area

It has been accepted that the area along the northwest coast of Port Underwood (currently CMZ1) is appropriate for the prohibited status because of the residential and recreational activity that occurs there. The area of southwest coastline has been recognised as appropriate to be prohibited because of its scenic and recreational values. The greater Rangitane Bay area, which has not been included as a prohibited area, in fact includes aspects of both of the immediately adjoining northwest and southwest coastline which will have prohibited status.

There are currently three houses with full time occupants which overlook this Bay and a fourth bach slightly down the coast. With the proximity of Ocean Bay and Robinhood Bay for boat launching and the ability to walk around the coast from Ocean Bay at low tide, the greater Rangitane Bay attracts frequent recreational activity. Secondly, the coastline at this site is similar to the terrain of the coastline running south which has been assessed as being appropriate for prohibited status.

To designate an area as suitable for applying for marine farming activity which contains the attributes of and lies in the middle of the western coastline of Port Underwood, for which all the rest is to be prohibited, is a gross anomaly and inconsistent in the proposed plan.

The gazetted area is not a valid reason for not prohibiting marine farming

The process of gazetting an area for Iwi marine farm allocation does not require or infer that the site is suitable for a marine farm operation or that it meets the requirements of the District plan. It merely prohibits other usage of the space. The aspect of suitability is a separate endeavour. In fact, the governmental review process for this site did not include consultation with the adjoining land owners, the local Port Underwood community nor the Marlborough District Council. Neither the community nor Council has seen any evidence that a robust assessment of the area to be gazetted was carried out to see if the site fit into to the MSRMP requirements for a mussel farm.

Obligations for Iwi marine farming allotment

There appears to be several options for fulfilling the obligation to Iwi besides water space and even if water space is required there will exist space that is more suited to growing mussels and be more compatible to the requirements and ideals of both the current and proposed Marlborough plans than that which the area of the Greater Rangitane Bay offers. Other sites may prove of greater utility to farm mussels than the Greater Rangitane Bay. It would appear of little value to gazette an area that has little utility and it is suggested that the obligations to iwi can be better met by gazetting a different area.

History of mussel farm applications on the west coast of Port Underwood

In the southwest coastal area of Port Underwood from Ocean Bay to Rarangi there have been four applications for mussel farms, all in the “goldrush” days when applications were being made with little regard to the suitability of the site. On three of the four applications the Council planner’s report advised that the sites be declined and the applications were subsequently withdrawn. One of the three applications, U990808, which the planner regarded should be declined, was for a mussel farm of 6.3 ha located at the recently gazetted site and much smaller than the gazetted space of 20ha.The fourth site was withdrawn before a planner’s report was made (this is assumed as no planner’s report is available). This is a strong indication that the Greater Ranitane Bay area is not suitable for mussel farming.

Conditions at southwest coast of Port Underwood are not suitable for growing mussels.

This coastline is subject to sever weather and wave action as is evidenced by the steep, rugged and eroded land form. This does not bode well for either keeping structures intact, working on the structures or the actual growth of mussels by being battered by high winds and close, steep, breaking waves.

Some of the more recent marine farm applications, including one 50% owned by an Iwi, claim to have made extensive studies of the available space in Port Underwood. None of them found the southwest coast to be suitable for mussel farming.

Consistency with other sections of the Marine Farming Policy of proposed plan

It is stated within the Draft Marine Farming Policy Provisions:

*Policy 1.12 – Areas of Marlborough’s coastal marine area where no application for marine farming can be made are identified on the RPS/Resource Management Plan maps through the ‘Prohibited Marine Farming Overlay’. The prohibition is applied:*

*(a) To protect areas of the coastal environment where ecological, iwi, heritage, landscape, natural character, open space, scenic, or amenity values are significant; and*

*(b) To avoid the occurrence of conflicts with other activities in the coastal environment including recreational, residential and navigational activities.*

*(c) For both (a) and (b) the values to be protected or the activities that are present where the potential for conflicts with marine farming could occur shall prevail over marine farming activities.*

This would appear consistent with Port Underwood Association’s submission that the mid-bay area of Port Underwood and the coastal area just south of Ocean Bay, Port Underwood should be included in the Prohibited Marine Farming Overlay for consistency within the proposed plan.

**Boundaries for the prohibited area**

The Port Underwood Association submits that the boundary for the prohibited area in Port Underwood should be the coastline for all areas now in CMZ1 and the southwest coast down to Rarangi. The boundary should be 250 metres from low water in those sections where marine farms currently exist. The southern boundary should extend eastward from the Rarangi coast until it meets the extension of the outer eastern CMZ1 boundary which runs southwest along the Cook Strait side of Robertson Point. This should be sufficient to include the Cloudy Bay area used by the local trawlers. Please refer to the diagram below.



Recommended Prohibited Marine Farming Overlay (Port Underwood)

**Environmental impact studies**

It is the Port Underwood Association’s view that there is an obligation on the Marlborough District Council to ensure the sustainable management of the coastal marine area. The Association submits that there is a lack of monitoring of the marine environment and little regard has been taken of the cumulative impact of marine farms.

It is believed that the current plan is deficient in not complying with the Resource Management Act 1991 and the New Zealand Coastal Policy 2010. These require the gathering of information regarding water quality and significant impacts upon ecosystems and habitats. There appears to be no proposals to be compliant with the Act and Policy. Consequently, the Association cannot accept the policy statement or management plan in its current form.

The Policy Statement states that “Little is known about the cumulative or long term effects of marine farming…”. The Association submits that it should be a priority of the Council to ascertain this information through environmental surveys. In addition, the Association submits that an obligation should be placed upon operators of marine farms to monitor the impact of their activities and publish public reports so that all stakeholders can be informed of the impact of marine farming. Studies need to be undertaken prior to the introduction or expansion of the farms and then at further regular intervals to identify the cumulative and long-term impacts.

Marine farms can give rise to a number of effects. These include:

* Changes in currents;
* Increased sedimentation;
* Dropping of shell, live species and pseudo-faeces;
* Changes in marine biodiversity particularly the destruction of eggs and larvae by filter feeders; and
* Reduction in nutrient.

The Association submits that there is an obligation placed upon the District Council to ascertain these effects by existing farms and proposed new farms or expansions. These effects will adversely impact upon amenity, recreational and commercial fishing, tourism and a decline in ecological value.

The Association also submits that the Council should set thresholds for various categories (such as nutrient levels, detritus produced by marine farms and marine biodiversity). Once these thresholds are met or breached the Council should also have a plan of action to remedy the breach (such as remediation or removal of marine farm).

The Port Underwood Association, therefore, submits that the proposed policy statement and resource management plan does not meet the standards required by the Act nor the NZ Coastal Policy Statement and consequently should be modified to enable it to comply.

**Other matters**

The Port Underwood Association suggests the following alteration (shown in red) to this section. This is to include an option of removing a licence to operate a marine farm where there are adverse effects. It is suggested that the ultimate sanction of removal should be available.

**Response to marine farm monitoring results**

*Policy 2.6 – Marine farms may be required to be managed in a staged and/or adaptive manner, where monitoring shows there are adverse effects that trigger a specified response or warrant a reconsideration of how the marine farm is operated.*

The suggested change is “…managed in a staged and/or adaptive manner, or removed, where monitoring shows…”.

There may be adverse effects that can not be moderated through an adaptive program.

**Chapter 5 Allocation of public resources**

The Port Underwood Association suggests the following alteration (shown in red) to this section.

Issue 5.A, fourth paragraph

*The occupation of coastal marine area may effectively prevent other activities from occurring. The extent to which the public are excluded from parts of the coastal marine area varies according to the nature of an authorised activity, whether by resource consent or by a rule in a regional coastal plan.[Add]. People can effectively be excluded from areas by a perception of private control or ownership of those areas. At times there can also be conflict and competition for water space, where uses and activities are not necessarily compatible in the same area.*