

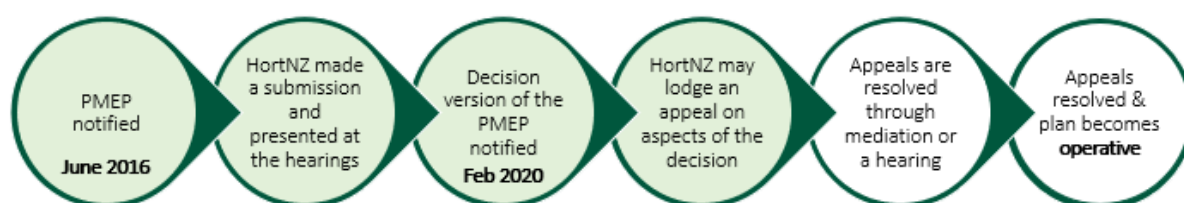
Update on the Marlborough Environment Plan

Marlborough Region | June 2020



What is the Proposed Marlborough Environment Plan?

- The Proposed Marlborough Environment Plan (“PMEP”) is a new resource management plan that combines the resource management policy statements and plans required by the RMA into one document (or unitary plan). It will replace the Marlborough Regional Policy Statement, Marlborough Sounds Resource Management Plan, and the Wairau/Awatere Resource Management Plan.
- Since 2016 HortNZ has been involved in the development of the PMEPE, telling the horticulture story and promoting outcomes that enable growing. HortNZ’s involvement has included comments at early draft stages, meetings with growers, making a submission on the PMEPE, making further submissions on changes other parties sought, and presenting at hearings.



- **A decision version of the PMEPE was notified on 21 February 2020 (a tracked change version of the plan was released on 28 February).** From this date, the plan reflected the decisions made by a panel of hearing commissioners, taking into account submissions and hearing evidence.
- Throughout this process, HortNZ has had some wins including:
 - Acknowledgement in the Rural Environment Policy chapter that there will be structures and buildings in the rural environment associated with primary production and the need to manage potential reverse sensitivity effects.
 - Increased minimum setbacks for habitable buildings from rear and side boundaries and for other buildings in the Rural Environment Zone.
 - Some of the changes HortNZ sought regarding audible bird-scaring devices – including reference to sunset/sunrise (rather than set times) and change in units to SEL (sound exposure level).
 - Inclusion of a definition for reverse sensitivity, fertiliser and a correction to the agrichemical definition
 - Rules restricting some activities within the National Grid Yard (the area adjacent to Transpower lines) which were mutually agreed at the hearing (to be consistent with other plans and other existing electricity regulations).
 - Water transfer policies were retained.
 - Deletion of specific reference to IrriCalc, as the only tool to determine reasonable demand of water (allowing for alternatives most suited to the crop to be used).
- The PMEPE is now in the appeals stage (see diagram above) – HortNZ has lodged an appeal on the PMEPE (this is summarised in the tables below).

What does this mean for growers?

Even though the PMEPE is still called ‘proposed’, **the objectives, policies and rules in the plan now apply.** The existing plans still remain relevant for activities where decisions on the PMEPE have been appealed to the Environment Court (these existing plan rules will remain relevant until the appeals are resolved). As a basic guide:

- Where there are no appeals on a rule – the PMEPE applies (i.e the rule is ‘operative’)
- If there are appeals on a rule – both the current operative regional plans and the PMEPE apply.

Note: The [appeal version](#) of the plan notes whether a provision is subject to appeal.

How the new rules apply will vary according to the status and nature of the activity:

- The **‘District plan’ rules (e.g. land use and subdivision rules) are marked [D]** - these rules have had legal effect since the PMEP decision was notified in February.
- The **‘Regional’ plan rules (e.g. air, land, soil, water related rules) marked as [R]** - these rules have had legal effect from the date the Plan was notified in 2016 (and now are superseded by the decision version provisions).

Current consented activities: If you already have a resource consent, the new plan will only become relevant for this activity if, or when, you need to renew your consent (or if your consent conditions are reviewed).

Current existing uses:

For district [D] rules:
You may continue to use land in a way that contravenes a rule in a district plan or proposed district plan, if:

- the activity was lawfully established before the rule became operative or the proposed plan was notified **and**
- the effects of the activity are the *‘same or similar in character, intensity, and scale’*. This no longer applies if the activity has been discontinued for a period of more than 12 months.

For regional [R] rules:

Some activities that are subject to regional rules may have limited existing use rights (for 6 months after a rule becomes operative, until a resource consent is sought) under Section 20A of the RMA – we recommend seeking advice from the Council or a planning consultant if you think this might apply.

New activities

- You will need to determine if your activity meets the permitted activity standards for the activity in the Plan.
- If it doesn’t, you will need to apply for a resource consent. The Council will consider the objectives and policies of the Plan and how adverse effects of the activity can be managed or mitigated.

The PMEP can be accessed on Marlborough District Council’s website [here](#). If you need assistance reading the plan or understanding whether you need consent, please contact the Marlborough District Council or your local planning consultant.

What does the plan cover?

The PMEP includes rules for activities including: water takes, discharges, activities in wetlands or waterways, damming or diversion, agricultural use, buildings and structures, cultivation etc.

Navigating the PMEP

The objectives and policies are found in Volume 1 and the rules in Volume 2. The plan maps can be viewed as Interactive Smart Maps [here](#).

Volume 2, Chapter 2 (General Rules) includes rules for:

- Water take, use, damming or diversion
- Activities in, on, or under the bed of a lake or river
- Discharges to water
- Activities in road and rail corridors, heritage resources, notable trees, transportation, signs.

All other rules are addressed in the zone-specific chapters (Chapters 3-23) – e.g. Chapter 3 is the Rural Environment Zone chapter. Chapter 24 addresses Subdivision and Chapter 25 includes definitions of terms used throughout the PMEP.

Overview of rules

The tables below includes a summary of the rules most relevant to horticulture and summarises the key differences between the PMEP and the Wairau/Awatere Resource Management Plan (WARMP).

RULES FOR WATER TAKES

The region is divided up into Freshwater Management Units (FMU's) in the PMEP – **for each FMU there are quantity allocations for water takes and minimum flows and levels** for water takes (including water rationing and/or restrictions). These are based on historic monitoring, or where there is insufficient environmental data and the FMU is not listed, a default limit allocation or minimum flow is set. These are in **Appendix 6** of the PMEP.

<p>Permitted Water Takes [R]</p>	<p>Rule 2.2.1 allows abstraction up to 5m³ per day per dwelling for individual's reasonable domestic needs – subject to permitted activity conditions.</p> <p>Rule 2.2.5 allows 5m³ per day per Record of Title for incidental use associated with farming or intensive farming – subject to permitted activity conditions.</p> <p><i>(Under the WARMP; up to 10 m³ /day/site for domestic use was permitted (unless water rationing is imposed), except for in the Wairau Aquifer where abstraction up to 15 m³ /day/site was permitted.)</i></p> <p>There are also a number of other permitted water takes in the PMEP.</p>	<p>HortNZ has an appeal: Seeking that Rule 2.2.1 includes worker accommodation also (which are not part of the dwelling definition)</p>
<p>Water takes requiring consent [R]</p>	<p>Unless provided for in the suite of permitted rules (2.2 Permitted Activities) – resource consent is required for water takes.</p> <p>Consent cannot be sought for:</p> <ul style="list-style-type: none"> • A water take that would exceed an allocation limit for the FMU (unless it is a permitted activity, or affected by section 124 of the RMA i.e. the holder of the consent applies for a new consent for the same activity at least 6 mo. before the existing consent expires) • Take of water from the Omaka Aquifer Freshwater Management Unit, Benmorven Freshwater Management Unit or the Brancott Freshwater Management Unit for use on land in another Freshwater Management Unit. • Frost fighting water between 1 January and 30 April each calendar year. 	
<p>Transfer of water permits [R]</p>	<p>The PMEP includes a policy framework for water transfers, but not specific rules anticipating that MDC will do a plan change to include an enhanced transfer streamline system in the future. In the meantime, water transfers require consent.</p>	
<p>Related objectives and policies</p>	<p>There is a number of objectives and policies that provide guidance on the management of water. HortNZ sought provision for rootstock survival water and crop survival water – these provisions were not accepted by the hearing panel.</p> <p>HortNZ also sought greater recognition of the value of food production.</p>	<p>HortNZ has an appeal: Seeking provisions for rootstock survival water; To include to include an 'irrigation, cultivation and food production' as an FMU value; Seeking that municipal supply is not be given</p>

		greater priority than other commercial users of water (which may include irrigation); Seeking that reasonable demand given the intended use is first reviewed before reduction in over-allocated FMUs.
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RULES FOR WORK IN WATERWAYS AND DISCHARGES

The plan also includes a number of rules for damming or diverting of water ways, as well as works within a wetland, waterbody or the coastal marine area, as well as rules applicable to discharges to water.

HortNZ has appeals:

- Opposing a restriction in the PMEP on the damming of water and operation of reticulation lines within the National Grid Yard.
- Seeking recognition of irrigation, cultivation and food production values in Appendix 5 (*The WARMP has Appendix P Irrigation Water Quality Guidelines and Appendix J Water Quality Classifications (which includes 'Suitability for human consumption or irrigation')*).

Note: The PMEP does not include cumulative freshwater quality limits and technical investigations will inform a future plan change to introduce cumulative limits, to give effect to the water quality aspect of the NPSFM.

RULES FOR AGRICHEMICAL APPLICATION

<p>Agrichemicals to water [R]</p> <p>PMEP Rule 2.16.2/2.17.2</p> <p>WARMP Rule 27.1.10.15</p>	<p>The PMEP includes very similar requirements to the WARMP (application in accordance with product label, and use only for purpose of eradicating, modifying, or controlling aquatic plants).</p> <p>Additional requirements in the PMEP are:</p> <ul style="list-style-type: none"> • Requirement to notify the Council (in addition to the current requirement to notify people within 1km (downstream) taking water for domestic supply or with a resource consent to take water for a water supply purpose), at least one week before application. • Agrichemicals must be approved for use under HSNO <p>(Note: there is a separate rule, 2.16.11, for within a Drainage Channel Network or Floodway Zone).</p>	<p>HortNZ has an appeal: Seeking to include a GROWSAFE training requirement, and signage where spraying is in a publicly accessible location – to align with best practice and NZS8409.</p>
<p>Agrichemical application (to land) in Rural Zone [R]</p> <p>PMEP Rule 3.1.23/3.3.23</p> <p>WARMP Rule 30.7.8.5</p>	<p>Similar agrichemical provisions apply to agrichemical application to land as a permitted activity including:</p> <ul style="list-style-type: none"> • Application in accordance with most recent product label [or if approved for use under HSNO, the conditions of approval - New]. • All spills above application rate must be notified to Council immediately. • Must not result in agrichemical being deposited on a river, lake, significant Wetland, drainage channel or Drainage Channel Network that contains water [<i>WARMP refers to water generally</i>] • Must be carried out in accordance with Sections 5.3 and 5.5 of NZS 8409:2004 [<i>rephrased and updated NZS version</i>] • New requirement that Triazine herbicide must not be applied to a Soil Sensitive Area identified as free-draining soils. 	<p>HortNZ has an appeal: Seeking to include a GROWSAFE training requirement (except for hand-held application), and specific notification requirements when adjacent to sensitive areas -- to align with best practice and NZS8409.</p>

	<p>The PEMP removes the requirement (under the WARMP) to hold GROWSAFE qualifications for contractors and pilots.</p> <p><i>Note: There are equivalent agrichemical rules in each zone Chapter of the PEMP – agrichemical application is only permitted in the Urban Residential, Coastal Living and Business zones if it is by hand-held equipment.</i></p>	
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SUMMARY OF KEY RURAL ENVIRONMENT ZONE PROVISIONS

NB: If your activity is located within a different zone, different rules may apply.

<p>Farming (and buildings) [D]</p> <p>Various (Vol 2, Chapter 3)</p>	<p>Farming as a landuse activity remains permitted. Standards apply to buildings and structures.</p> <p>Height: a 10m height limit remains (New – maximum height of 7.5m in Omaka Valley)</p> <p>Setbacks:</p> <ul style="list-style-type: none"> • Setbacks introduced for sites less than 4000m² (New) • Setbacks for sites greater than 4000m² - the PEMP distinguishes between habitable buildings and other buildings (and excludes crop protection structures) and the PEMP introduces greater setbacks for rear and side boundaries for habitable buildings that in the WARMP. • Setback distances from riparian margins, drainage channels, stopbanks etc. • Setback of 100m required for dwellings, from buildings or associated waste storage facility used for intensive farming (New) or the outer bank of an oxidation pond, sewage treatment works or a site designated for such works <p>Daylight recession planes for buildings 15% site coverage maximum</p> <p>New - specific standards for within the Limestone ONF/L and Wairau Hills High Amenity Landscape – in relation to distance from ridgeline and reflectance</p> <p>New - some restrictions in Flood Hazard areas</p> <p>Note: There are also excavation rules which apply.</p>	<p>HortNZ has an appeal:</p> <ul style="list-style-type: none"> • To make clear/provide for buildings associated with farming as permitted (subject to the standards) • Exempt artificial crop protection structures from the 15% site coverage standards (and to make the use of crop protection structures and related terms consistent throughout the plan)
<p>Cultivation [R] and [D]</p> <p>PMEP – Rule 3.1.14</p> <p>WARMP – Rule 30.1.7.2</p>	<p>PMEP includes very similar rules for cultivation – including setbacks relating to slope angle and restoring vegetation cover.</p> <p>Additional conditions:</p> <ul style="list-style-type: none"> • Setback of 8m from Significant Wetland, unless fenced (cultivated can occur up to the fence) • Must not cause conspicuous change in colour or natural clarity of a flowing river after reasonable mixing, or a Significant Wetland, lake or coastal marine area. <p>Note: There are also rules for indigenous and non-indigenous vegetation clearance rules, in both plans.</p>	<p>HortNZ has an appeal:</p> <p>Seeking to include a new standard for rotational cropping; which would require compliance with industry good management practice guidelines to minimise sediment run-off, instead of the vegetation cover/ no more than 20% bare ground condition.</p>
<p>Greenhouses [D]</p> <p>Various provisions including</p>	<p>The same provisions apply in the PEMP as the WARMP:</p> <ul style="list-style-type: none"> • Greenhouses not relying on soils are included in the definition of Intensive Farming (which requires consent as a Discretionary Activity). • Greenhouses that utilise the soil of the site are permitted if they meet the permitted standards applicable to buildings 	<p>HortNZ has an appeal:</p> <p>Seeking that that greenhouses are excluded from the definition of Intensive Farming - because this is inconsistent with the National Planning</p>

intensive farming definition and conditions that apply to all activities	(e.g. height, yard etc.) but are exempt from site coverage provision.	Standards Definition of 'intensive indoor primary production'; and to remove the distinction between not relying on soils/ not utilising the soil.
<p>Noise [D]</p> <p>PMEP Rule 3.2.3</p> <p>WARMP Rule 30.1.4.1</p>	<p>In both plans, noise limits apply at the boundary of the zone or within the notional boundary of any dwelling. There has been some amendment and rephrasing of noise limits.</p> <p>In the PMEPM, mobile machinery used for a limited duration as part of agriculture or horticulture activities in the Rural Environment Zone are excluded from noise limits.</p> <p>Specific provisions apply to audible bird scaring devices.</p>	Part of the permitted activity standards are subject to appeals (relating to forestry and electricity generation only).
<p>Audible Bird Scaring Devices [D]</p> <p>PMEP – Rule 3.1.5 and 3.3.5</p> <p>WARM – Rule 30.1.4.2.2</p>	<p>The PMEPM takes a similar approach to managing these devices (managed as Category A or B):</p> <ul style="list-style-type: none"> • Must not be operated between sunset and sunrise if within 2km of a noise sensitive activity [<i>in WARMP specific times are stated</i>]; • Shall not be within 800m of a rest home, public or private hospital (unchanged); • Setbacks from dwellings (of 160m) were deleted, but maximum noise level of 65 dB SEL remains (measured at zone boundary or boundary of house/habitable building) • New - Must not be closer to 250m of another device • New - Must only be operated when crop is at risk of damage • For Category A devices: Setback (of 100m) from the road remains, frequency provisions rephrased, density of 1 device per 5ha remains • For Category B devices: frequency restriction (rephrased, but remains) 	There are no appeals on audible bird-scaring device rules - therefore these rules are operative.
<p>Fertiliser (and lime) application [R]</p> <p>PMEP –Rule 3.3.24</p> <p>WARMP –Rule 30.1.8.3</p>	<p>Cumulative nitrogen loading must not exceed 200 kg N/ha/yr (same as operative plan)</p> <p>And also, new or amended provisions include:</p> <ul style="list-style-type: none"> • The Plan introduced Soil Sensitive Area overlay (refer to planning maps) – fertiliser must not be applied to Soil Sensitive Areas identified as free-draining soils • Fertiliser must be stored on an impermeable, bunded surface and covered • Application must not occur when the soil moisture exceeds field capacity • The decision changes the use of “all reasonable care must be exercised ...” to a requirement that the application of fertiliser must not cross the boundary <p>(The operative plan includes provisions or setbacks specific to water quality classifications – these are not in the PMEPM).</p>	<p>HortNZ has an appeal:</p> <ul style="list-style-type: none"> • Seeking to replace the N input limit with requirement to use only the 'reasonable nitrogen requirements of the crop being grown' • To reinsert the terms “all reasonable care must be exercised.” so the rule is more practical.
<p>Liquid waste and solid waste rules [R]</p> <p>PMEP –Rules 3.1.27/3.3.27</p>	The PMEPM rules includes some additional standards relating to location (to manage environment risk) – e.g. Soil Sensitive Areas and Groundwater Protection Areas – and different standards relating to the characteristics of the waste and restrictions on application.	Parts of these rules are subject to appeals.

<p>and 3.1.34/3.3.34</p> <p>WARMP – Rule 30.1.8.9 and 30.1.8.10</p>		
<p>Frost Fans/ Frost Protection</p>	<p>The PMEPP retains a Controlled Activity rule, 3.4.1 [D], for erecting and using Frost Fans (i.e. a resource consent is required) and a rule [D] which requires insulation noise sensitive activities establishing within 300m of a frost fan (that is not on the same site).</p> <p>The PMEPP also includes a rule for the discharge of contaminants to air from burning oil in a frost protection heater 3.1.40 [R] and 3.3.40, which:</p> <ul style="list-style-type: none"> • Must only be for the purpose of preventing damage to crops • Burning of oil must only take place in fuel brngin equipment that operates with a stack or chimney, purpose built, maintained and has double burning • No waste oil is to be burnt, excluding re-refined oil 	<p>There are no appeals on these rules - therefore these rules are operative.</p>
<p>Other air discharge rules [R]</p>	<p>The PMEPP includes rules for open burning, burning for vegetation clearance, discharges from seed cleaning, burning of solid fuel in an enclosed pellet burner and small scale solid fuel burning devices.</p> <p>Some of these rules distinguish activities based on whether they are inside or outside of the Blenheim Air Shed.</p>	<p>There are no appeals on these rules - therefore these rules are operative.</p>
<p>(Seasonal) Worker Accommodation [D]</p> <p>PMEPP Rule 3.1.4/3.3.46</p>	<p>The PMEPP introduces Appendix 24 Worker Accommodation Area – this includes areas that are 15km from Blenheim and Renwick and 10km from Ward and Seddon. Worker accommodation in this area is a permitted activity.</p> <p>Elsewhere in the Rural Environment, Policy 14.5.2 lends support to worker accommodation in remote locations. The intent of this approach is to encourage accommodation in close proximity to these urban areas to eb within these established townships.</p>	<p>There are no appeals on these rules or appendix - therefore these rules are operative.</p>
<p>Within National Grid [D]</p> <p>PMEPP 3.1.16/3.3.16 and 3.1.64/3.3.52</p>	<p>PMEPP includes rules for earthworks, buildings and structures within the National Grid Yard. These rules include reference to New Zealand Electrical Code of Practice (NZECP34:2001).</p> <p>Note: The National Grid Yard is defined in the PMEPP.</p>	<p>HortNZ has appeal on: The definition of minor upgrading of electricity lines allowing voltage increases as a permitted activity.</p>

HortNZ’s appeal is also seeking:

- To clarify that the definition of rural industry includes packhouses and the like (not limited to industrial processes).
- Specific provisions that enable a biosecurity response.
- Amendments to ensure all sensitive activities (not just residential activities) are managed by the Rural Environment framework.