MARLBOROUGH
DISTRICT COUNCIL

RESOURCE MANAGEMENT ACT 1991

Decision of Marlborough District Council

RESOURCE CONSENT: U151089

APPLICANT: Stuart David Barnett and Valmai Lynne Barnett

LOCATION: Lochmara Bay, Queen Charlotte Sound

THIS IS THE DECISION ON THE APPLICATION FOR RESOURCE CONSENT:

New coastal permit (replacing U001056) for existing swing mooring 995 located in Lochmara Bay.

DECISION: **Granted**

RESOURCE CONSENTS ISSUED:

Coastal Permit

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Certificate of Resource Consent

Consent Holder: Stuart David Barnett and Valmai Lynne Barnett

Consent Type: Coastal Permit

Consent Number: U151089

Pursuant to sections 34A(1) and 104B and after having regard to Part 2 matters and section 104 of the Resource Management Act 1991, the Marlborough District Council **grants** a new coastal permit (replacing U001056) for existing swing mooring 995 located in Lochmara Bay, subject to the following conditions imposed under section 108 of the Resource Management Act 1991.

Conditions

1. If not given effect to prior, this resource consent shall lapse on 1 May 2016.

2. This resource consent shall expire on 1 December 2035.

3. Except insofar as required to comply with other conditions of this resource consent, the swing mooring activity must be undertaken in accordance with the Application for Resource Consent U151089.

4. The mooring block must at all times remain at the coordinates Easting 1683428, Northing 5434737 (New Zealand Transverse Mercator 2000).

5. One vessel only of a maximum length of 13.0 metres may use the approved mooring at any one time.

6. The maximum swing circle of any vessel using the mooring shall not exceed a radius of 33.75 metres.

7. The number '995', the surname of the consent holder and the maximum vessel length as per Condition 5 shall at all times be clearly displayed on the mooring's marker buoy.

8. The consent holder shall ensure that all parts of the mooring are maintained in a condition that is at all times safe and secure for the mooring of the vessel as set out in Condition 5 of this coastal permit.

9. Not later than 11 March 2017, and biennially thereafter, the consent holder shall provide the Compliance Manager, Marlborough District Council, with a mooring inspection record showing that the mooring has been recently inspected and maintained as necessary to meet the requirements of Condition 8. That record shall also confirm the current coordinates of the mooring block, the total tackle length, water depth at mean low water springs, and the mooring number and vessel length displayed on the mooring buoy.

10. Whenever the mooring block is shifted for any purpose, the block and tackle must be lifted from and returned to the seabed in a controlled manner. In no circumstances is the block to be dragged across the seabed or foreshore.

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11. In accordance with section 128 of the Resource Management Act 1991, the Marlborough District Council may review the conditions of this consent for the purpose of ensuring that adverse effects on maritime safety, recreation values and amenity values are avoided, remedied or mitigated. In particular, Conditions 4 and 6 may be reviewed in order to implement a regimented and efficient mooring layout in the immediate vicinity, and to require a mooring system which reduces the area of occupation. Notice of review for these purposes may be given during the months of January to December (inclusive) during any year for the duration of this consent.

12. The land to which the approved mooring relates is presently known as Lot 11 Deeds 95 (the Land). This coastal permit must not be transferred to any person other than an owner of the Land. In the event that the current consent holder ceases to own the Land, this coastal permit must within 3 months be transferred to such a landowner or shareholder, failing which must be surrendered in writing to the consent authority. Such transfers shall have no effect until Council is notified in accordance with section 135 of the Resource Management Act 1991.

13. Unless a replacement resource consent is applied for and granted, the consent holder, at the consent holder's expense, must remove the mooring from the coastal marine area and provide written confirmation of this to the Compliance Manager, Marlborough District Council, within three months of any of the following events occurring:

    a) The expiry of the resource consent; or

    b) The consent being surrendered or cancelled; or

    c) The mooring becoming surplus to the needs or requirements of the consent holder.

Advice Notes

1. The consent holder is advised that overlapping mooring swing circles in the bay, including the subject mooring 995, create the potential for moored vessels to collide with one another.

2. The consent holder will in the future be required to pay coastal occupation charges if they are imposed through Council's resource management plans.

3. A replacement coastal permit or change of condition/s will be necessary if the consent holder wishes to reposition the mooring from its consented coordinates or increase the maximum length of vessel consented to use the mooring.

4. Pursuant to section 36 of the Resource Management Act 1991 and the Marlborough District Council's schedule of fees, the consent holder will be responsible for all actual and reasonable costs associated with the administration and monitoring of this resource consent.

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Reasons

Proposal

1. Stuart and Valmai Barnett (the applicant) seek a replacement resource consent for their swing mooring 995 for a 13 metre vessel located within Lochmara Bay. Based on the submitted water depth of 7.8 metres and a tackle length of 22 metres, a 13 metre long vessel using mooring 995 has a maximum possible swing radius of 33.75 metres.

Description of Receiving Environment

2. The application site is located on the western shoreline of Lochmara Bay, about 6 kilometres by sea to the north of Picton. Resource uses in the locality primarily consist of a coastal ribbon of large lot residential development backed by public conservation land. Associated with that residential development are moored vessels and occasional foreshore structures such as jetties and boatsheds.

Activity Status

3. The mooring site is within the 'Coastal Marine 1' zone as defined by the Marlborough Sounds Resource Management Plan (the Plan). The proposal constitutes a discretionary activity requiring resource consent under Rule 35.4 of the Plan.

Notification and Affected Parties

4. Within the particular receiving environment Council determined that public notification of the application was unnecessary. The owners of neighbouring moorings 2880 and 2881 gave their written approval to the application.

Assessment of Effects

5. In terms of the considerations required by section 104(1)(a) of the Resource Management Act 1991, the proposal is concluded to have acceptable adverse effects on the natural character, landscape values, recreational values, amenity values and cultural values of the locality. In reaching this conclusion it is assessed that the moored vessel is adequately distanced from main routes of navigation and is consistent with the established character and amenity of the area. It is further assessed that the mooring facilitates water access to the applicant's nearby property and associated recreational use of the area.

6. With regard to effects on maritime safety, the potential swing circle of the mooring intersects those of neighbouring moorings 2880 and 2881. In assessing the significance of the potential adverse effect, the overlap is much less than 20 percent and the owners of those neighbouring moorings have given their written approval to the application. In the circumstances it is considered to be acceptable to grant consent subject to conditions enabling the location and swing circle of the mooring to be reviewed, if that proves to be necessary.

Relevant Statutory and Plan Provisions

7. In terms of the considerations required by section 104(1)(b) of the Resource Management Act 1991, Policies 6, 13, 15, 18 and 19 of the New Zealand Coastal Policy Statement 2010; Objectives 7.1.2, 7.1.9, 7.2.7 and 8.1.2 and Policies 7.1.7, 7.2.8, 7.2.10 and 8.1.6 of the Marlborough Regional Policy Statement; and Policies 2.2.1.2, 6.1.2.1.4, 8.3.1.2, 9.2.1.1.1, 19.3.1.1 and 19.3.1.7 of the Marlborough Sounds Resource Management Plan are of relevance to an evaluation of the proposal. Within the context of the site it is concluded that the moored vessel, subject to conditions, is consistent with the identified provisions.

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Part 2 Resource Management Act 1991

8. Having considered the matters of national importance, other matters and principles of the Treaty of Waitangi as required by Part 2 of the Resource Management Act 1991, it is concluded that the sole purpose of the Act would be better achieved through a grant of resource consent, subject to the conditions specified. In particular, restricting the transfer of the consent protects the amenity values of the bay, recognises the functional need for the mooring and accounts for the finite suitable mooring space within the bay.

Consent Duration and Lapse Date

9. Section 123 of the Resource Management Act 1991 requires that every coastal permit have an expiry date. In this case an expiry date of 1 December 2035 is consistent with sustainable management. As the mooring is already in place a two month lapse period is imposed for Council's administrative purposes only.

Recommended for approval:

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Peter Johnson
Resource Management Officer

Approved:

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Anna Eatherley
Marlborough District Council Manager Resource Consents

3rd February 2016
Date

Additional Important Information for Resource Consent Holders

The following information provided in this information sheet is a guide to the legal rights of applicants and submitters.

If you want to discuss matters raised in this information sheet you are welcome to contact Council. However, if you require specific advice you should contact an independent professional and refer to the relevant sections of the Resource Management Act 1991.

Commencement of a Resource Consent

Refer to section 116 of the Resource Management Act 1991

- Where no submissions were lodged or any submissions were withdrawn, a resource consent commences, (and may be actioned) on the date of the receipt of the decision.
- Where submissions were lodged to the application, and not withdrawn, the resource consent commences once the time for lodging an appeal has passed, provided no appeals have been received, or when all appeals have been resolved or withdrawn.
- If the resource consent was for activities controlled by the district plan on reclaimed land or land in the coastal marine area, or a restricted activity; then there are specific provisions regarding the commencement of resource consent. These provisions are outlined in section 116 of the Resource Management Act 1991.

Lapsing

Refer to section 125 of the Resource Management Act 1991

- If no lapse date is specified in the conditions of this consent, the consent will lapse 5 years after the decision date, unless the consent has been actioned (given effect to).

Conditions of Resource Consent

Refer to section 108 of the Resource Management Act 1991

- If conditions are imposed these will be set out in the decision document.
- Please read your consent and ensure that you fully understand any conditions.
- If you have concerns with any condition(s), in the first instance you should discuss your concerns with Council, although an option may be to lodge an appeal or objection.
- It is a legal requirement that there be **compliance with** all conditions.
- If any conditions are contravened it may be that the Council or members of the public will initiate enforcement action (outlined in Part XII of the Resource Management Act 1991).

Change or Cancellation of Conditions of Resource Consent

Refer to section 127 of the Resource Management Act 1991

- The consent holder may apply to the Council to change or cancel conditions of the consent, except a condition specifying duration.

Monitoring Fees

Refer to section 36 of the Resource Management Act 1991 and the Council's Schedule of Fees

- The consent holder will be charged for actual and reasonable costs associated with the monitoring of this consent.

Objections

Refer to section 357 of the Resource Management Act 1991

- In certain circumstances the applicant has the right to object to the Council's decision.
- Any objection shall be made in **writing** and will need to outline the reasons for the objection.
- An objection needs to be lodged with the Council within **15 working days** of the Council's decision being received by you or your agent.

Appeals

Refer to Form 16 and sections 120 and 121 of the Resource Management Act 1991

- The applicant and any submitters have the right to appeal the whole or any part of the Council's decision.
- A notice of appeal must be lodged with the Environment Court and the Council, within **15 working days** of the Council's decision being received (or received by your agent on your behalf). A copy also needs to be served on the applicant and submitters to the application within 5 working days of the notice being lodged with the Environment Court.

Before lodging an objection or an appeal it is recommended that you seek professional advice.

Annotation History

Date	Reason for Amendment/Alteration
13/01/2021	Transfer **from** Stuart David Barnett and Valmai Lynne Barnett **to** Camden Properties Limited.
12/07/2022	Transfer **from** Camden Properties Limited **to** [redacted] and [redacted] as trustees of the 1980 Family Trust.