



File Ref: L150-019-16-08

Date: 15 December 2021

Memo To: Proposed East Coast Beach Vehicle Bylaw Panel

Copy To:

From: Luke Grogan – MDC harbourmaster

Subject: Report on the Proposed Access Point at Ward Beach

I have been instructed under Minute 4, 4(4)(d) issued by Commissioners dated 26 November 2021 to provide a report on the safety of the proposed boat access point at Ward Beach, and whether this should enable public access.

To inform my comment I have reviewed submissions on this proposed Bylaw as relate to maritime and navigation safety, undertaken a site visit to Ward Beach and reflected upon a range of conversations I have had (recently and prior to this process) with people who use this area for recreational and commercial purposes.

Further, I have attempted to limit comment to maritime safety matters in line with my expertise and my role as harbourmaster for the Marlborough District Council (MDC). Maritime safety is a narrower scope than 'safety in general' but considered to be broader in scope than navigation safety.

Maritime safety is relevant as Regional Councils' have an obligation as per The Maritime Transport Act 1994 to ensure maritime safety in their regions and appoint harbourmasters for this purpose.

Ensuring maritime safety requires as a starting point, an assessment of risk. In this particular case this is not particularly challenging as it is immediately evident that Ward Beach is a high-risk location at which to undertake any maritime activity including launching or retrieving a vessel.

Ward Beach forms part of an isolated area of coastline that is directly exposed to the violent winds and seas often generated in the Pacific and Southern Oceans. Sea and weather conditions in this area can and do change rapidly.

These forces of wind and sea when coupled with underlying geography of the area create a treacherous coastline for mariners. Numerous weathered rocks sharp enough to pierce any hull punctuate the sea surface and these rock formations combine with both tide and complex bathymetry to create strong unpredictable currents in the area. There is good reason why a lighthouse has stood on the nearby Cape Campbell for over 150 years warning ships to stay well clear of this coastline.

Given these factors the only reasonable conclusion I can draw is that Ward Beach should be characterised as a high-risk location from which to launch a vessel or undertake maritime activity.

To be clear, by identifying the area as a high-risk location I am not suggesting that maritime activity should be prevented from occurring in this area. Due care must be exercised but it is clear that the risks of this environment can be effectively managed. This is frequently demonstrated by those who do undertake maritime activity from and around Ward Beach including commercial boat launching, surfing, diving and various forms of fishing.

That this activity occurs routinely and with few incidents shows that the inherent risk of the Ward Beach environment can be managed so as to enable safe maritime activity to occur. This requires appropriate risk

controls to be in place such as having the requisite skills, experience and equipment. A good example is the commercial fishing operations that occur from Ward Beach which are undertaken in appropriate weather and sea conditions by sufficiently skilled personnel using equipment that is fit for purpose.

The responsibility to assess and manage risk associated with a marine activity rests primarily with the person or organisation undertaking that activity and not MDC or the harbourmaster.

For this reason, I disagree with some of the submissions which seem to suggest that MDC will be responsible for the actions of a person who chooses to launch their vessel at Ward Beach (or any other East Coast location) and navigate the coast area. Ultimately, any person who chooses to take to sea, cannot divest themselves of the responsibility for that decision and managing their own maritime risks.

There is no obligation on MDC or the harbourmaster to 'make it safe' for example through the provision of upgraded launching facilities, increased lighting or buoyage or the introduction of other significant controls. Rather, MDC must demonstrate due diligence in assessing risks and in the management of these risks in alignment with the Port and Harbour Safety Code.

(Note the use of the term risk in reference to the risk profile of the harbour as opposed to the maritime risk faced by an individual i.e. the maritime risk to which an individual may be exposed may be very high at Ward Beach but in the context of harbour risk, maritime risk in the area may be low due to factors such as a comparatively low level of activity).

Given the challenging environment and relatively low level of activity occurring at Ward Beach investment in the aforementioned controls would likely be grossly disproportionate to the risk this area represents within the Marlborough harbour. Further, provision of these controls could reasonably be taken to imply that MDC considered the area as safe or a low risk for maritime activity to occur. This is a message that should be avoided.

In this regard, I do consider that there is more that I as Harbourmaster can reasonably do to communicate that Ward Beach, and the East Coast in general, presents a high level of maritime risk to individuals or organisations seeking to undertake maritime activity in this area.

Reasonably practicable actions I may undertake as part of the harbour risk review process could include installation of signage at the Ward Beach carpark and publication of harbourmasters notices in local newspapers and on the MDC website and media platforms. The main message will be that this environment is no place for the novice.

To summarise, Ward Beach is a high-risk area in which to undertake maritime activity. Only persons with sufficient skill, experience and equipment should attempt to launch and retrieve vessels in this location. Council via the harbourmaster can do more to increase awareness of the maritime risk. In most cases, the best way for people to manage maritime risk in and around Ward Beach will be to undertake their chosen maritime activity elsewhere.

I will be present at the Hearing to answer any questions.



Luke Grogan
Harbourmaster