

**In the Environment Court  
I Mua I Te Kōti Taiao O Aotearoa  
Christchurch Registry  
Ōtautahi Rohe**

**ENV-2020-CHC-**

Under the Resource Management Act 1991  
And in the matter of an appeal pursuant to Schedule 1, clause 14(1) of the Act

Between

**Port Marlborough New Zealand Limited**

Appellant

and

**Marlborough District Council**

Respondent

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**Notice of Appeal on behalf of Port Marlborough New  
Zealand Limited against decision on the Proposed  
Marlborough Environment Plan**

**8 May 2020**

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**BELL GULLY**

BARRISTERS AND SOLICITORS

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**To:** The Registrar  
Environment Court  
Christchurch

1. Port Marlborough New Zealand Limited (**PMNZ**) appeals against parts of a decision of the Marlborough District Council (the **Council**) on the Proposed Marlborough Environment Plan (the **PMEP**).
2. PMNZ made two submissions and one further submission on the PMEP.
3. PMNZ is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 (the **RMA**).
4. PMNZ received notice of the decision on 21 February 2020. PMNZ received notice of the tracked-changes version of the PMEP on 3 March 2020, which was to be read together with the decision.
5. The decision was made by the Independent Hearing Panel (the **Panel**) appointed by the Council.
6. The parts of the decision that this appeal relates to are:
  - (a) Volume 1 – Policy:
    - (i) Chapter 4: Sustainable Management of Natural and Physical Resources;
    - (ii) Chapter 6: Natural Character;
    - (iii) Chapter 8: Indigenous Biodiversity;
    - (iv) Chapter 9: Public Access and Open Space;
    - (v) Chapter 13: Use of the Coastal Environment and the Allocation of Coastal Space;
  - (b) Volume 2 – Rules:
    - (i) Chapter 2: General Rules;

- (ii) Chapter 13: Port Zone;
  - (iii) Chapter 14: Port Landing Area Zone;
  - (iv) Chapter 15: Marina Zone;
  - (v) Chapter 16: Coastal Marine Zone;
  - (vi) Chapter 19: Open Space 3 Zone;
  - (vii) Chapter 25: Definitions;
- (c) Volume 4 – Maps:
- (i) Zone Map 35 – Picton;
  - (ii) Zone Map 36 – Shakespeare Bay;
  - (iii) Zone Map 36 – Significant Wetlands – W991;
  - (iv) Zone Map 138 – Significant Wetlands – W991;
  - (v) Threatened Environments Indigenous Vegetation Sites; and
  - (vi) Ecologically Significant Marine Sites.

7. The reasons for the appeal and the relief sought from the Court are set out in detail below and in **Appendix A** to this notice. Amendments sought by PMNZ as set out in **Appendix A** are underlined or ~~struck-through~~.

#### **Overview of PMNZ's concerns**

8. PMNZ is responsible for the operation and maintenance of Marlborough's regional port and marina facilities. Port facilities in Picton, Waikawa, Havelock and the Marlborough Sounds provide for a diverse range of users including passenger ferries, cruise ships, log export vessels, coastal freight, fishing vessels, marine farming and boat repair and maintenance facilities. Marina facilities located in Picton, Havelock and Waikawa provide more than 1050 berths, and

accommodation for a further 500 vessels is provided in boat shed and storage compound facilities.

9. PMNZ plays a key role in the regional and national economy by facilitating tourism, forestry export, fishing and marine farming. PMNZ has identified a number of opportunities to expand its facilities, particularly at Shakespeare Bay and Waikawa Marina and is also planning a significant renewal project for the facilities used by the Cook Strait ferries. It is therefore essential that the planning framework adequately provides for the port and marina activities, including by enabling appropriate expansion to service growth and economic development.

### **Reasons for the appeal**

10. PMNZ considers that those parts of the decision referred to above do not accord with the relevant requirements of the RMA, and are contrary to Part 2 of the RMA.
11. In particular, those parts of the decision:
- (a) Do not promote the sustainable management of natural and physical resources;
  - (b) Do not promote the efficient use and development of natural and physical resources;
  - (c) Do not result in the most appropriate plan provisions in terms of section 32 of the RMA;
  - (d) Do not implement the Council's functions under section 30 of the RMA;
  - (e) Do not give effect to higher order planning documents under section 67(3) of the RMA; and/or
  - (f) Are contrary to good resource management practice.

12. Without limiting the generality of the reasons outlined above, the specific reasons for the appeal are:
- (a) Parts of the PMEP do not properly provide for or enable PMNZ to:
    - (i) Continue to undertake activities required to efficiently, effectively and safely operate its port and marina facilities in Marlborough;
    - (ii) Undertake appropriate development of its port and marina facilities to realise its strategic potential for the benefit of Marlborough and wider New Zealand;
  - (b) Parts of the PMEP fail to:
    - (i) Recognise that PMNZ's port and marina facilities are a logistical hub for regionally significant infrastructure in Marlborough;
    - (ii) Recognise that the operation of PMNZ's port and marina facilities should be managed by the Port operator and should not be subject to unnecessary restrictions and controls under the PMEP;
    - (iii) Provide for all of the various delivery, dispatch and transportation activities and ancillary commercial activities that are undertaken at PMNZ's port and marina facilities as permitted activities;
    - (iv) Provide for other activities as permitted activities, particularly in the coastal marine area and in relation to indigenous vegetation, that are required to be undertaken to ensure PMNZ's port and marina facilities can be utilised in an unencumbered way; and
    - (v) Protect the port from noise sensitive activities and impose noise limits, particularly in the Marina zone, that will not unnecessarily restrict activities.

13. The additional specific reasons are set out in **Appendix A** to this notice.

**Relief Sought**

14. PMNZ seeks the following relief from the Court:
- (a) Amendments to address the matters raised in PMNZ's submissions and appeal, including amendments to the PMP as set out in **Appendix A** to this notice (or relief with the same or similar effect); and/or
  - (b) Such further, consequential or alternative relief as may be necessary or appropriate to address the reasons for appeal or give effect to the relief sought.
15. The following documents are attached to this notice of appeal:
- (a) a copy of PMNZ's submissions and further submission (with a copy of the submissions opposed or supported by PMNZ's further submissions) (**Appendix B**); and
  - (b) a copy of the relevant decision (or part of the decision) (**Appendix C**).



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Dated 8 May 2020

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**Advice to recipients of copy of notice of appeal***How to become party to proceedings*

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court within 15 working days after the period for lodging a notice of appeal ends.

Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

*How to obtain copies of documents relating to appeal*

The copy of this notice served on you does not attach a copy of the appellant's submissions or the parts of the decision appealed. These documents may be obtained, on request, from the appellant.

*Advice*

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

**APPENDIX A**

Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
<b>Volume 1 – Objectives and Policies</b>		
<p>Issue 4C</p>	<p>There is a tension between the character and intrinsic values of the environment and the ability of PMNZ to undertake development activities consistent with its role as a provider of significant infrastructure.</p> <p>This provision contradicts the provisions set out earlier in this chapter under Issues 4A and 4B, and is duplicated, or would be better placed, in other chapters of the PMEP, such as Chapter 6 Natural Character, Chapter 7 Landscape, Chapter 8 Indigenous Biodiversity or Chapter 13 Use of the Coastal Environment. Issue 4C is adequately addressed via the more specific 'Issues' in the PMEP.</p>	<p>Delete Issue 4C in its entirety:</p> <p><b><del>Issue 4C – The use and development of natural and physical resources in the Marlborough Sounds has the potential to detract from the character and intrinsic values of this unique and iconic environment.</del></b></p>
<p>Objective 4.3</p>	<p>Objective 4.3 is problematic as it could have the effect of precluding appropriate uses and development given the vague and all-encompassing wording.</p> <p>Other objectives of the PMEP either duplicate Objective 4.3 or provide better direction in terms of achieving a defined outcome.</p>	<p>Delete Objective 4.3 in its entirety:</p> <p><b><del>Objective 4.3 – The maintenance and enhancement of the ecological, physical, and cultural qualities and amenity values that contribute to the character of the Marlborough Sounds.</del></b></p>



Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
Policy 4.3.2	<p>PMNZ considers Policy 4.3.2 is duplicated in other policy provisions of the PMEP.</p> <p>It is appropriate to retain the more direct and specific wording of the policies in the landscape and natural character sections of the PMEP. The risk with duplicating policy themes in the PMEP is that differing wording used could be conflicting, and therefore problematic to implement.</p> <p>Policy 4.3.2 also uses uncertain language that could have unintended consequences when administered.</p>	<p>Delete Policy 4.3.2 in its entirety:</p> <p><del><b>Policy 4.3.2 – Identify the qualities and values that contribute to the unique and iconic character of the Marlborough Sounds and protect these from inappropriate subdivision, use and development.</b></del></p>
Policy 4.3.4	<p>Policy 4.3.4 is very broad and vague in its wording. As a result, it is likely that activities that result in any adverse effects on the environment will not achieve this policy.</p> <p>Further, the specific values associated with the Marlborough Sounds are identified elsewhere in the PMEP, for instance, via the overlays. While additional wording has been inserted into the explanation to the policy, it does not provide any greater clarity as to how the policy will be interpreted.</p> <p>Other provisions provide for much more specific outcomes than Policy 4.3.4. Policy 4.3.4 should be deleted as it could be used to override any of the more specific policies in the PMEP.</p>	<p>Delete Policy 4.3.4 in its entirety:</p> <p><del><b>Policy 4.3.4 – Encourage the enhancement of the qualities and values that contribute to the unique and iconic character of the Marlborough Sounds.</b></del></p>

Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
Policy 6.2.2	<p>PMNZ is concerned that this policy applies to all areas of the coastal environment (other than those areas that are of outstanding natural character) and may unnecessarily inhibit the activities of PMNZ.</p> <p>The PMEP classifies coastal natural character as either Outstanding, Very High or High. Policy 6.2.2 should be linked to these classified areas, and not be applied to all coastal areas of the Marlborough Sounds. This is consistent with the approach of Policy 13 of the New Zealand Coastal Policy Statement.</p>	<p>Amend Policy 6.2.2:</p> <p><b>Policy 6.2.2 – Avoid the significant adverse effects of subdivision, use or development, and otherwise avoid, remedy, or mitigate adverse effects, on the <u>characteristics values</u> that contribute to natural character, having regard to the significant criteria in Appendix 4, within:</b></p> <p><b>(a) <del>all those</del> areas of the coastal environment <del>outside of areas of outstanding natural character classified as</del> <u>Very High or High Coastal Natural Character</u>; and</b></p> <p><b>(b) lakes and rivers, and their margins of high and very high natural character.</b></p>
Objective 8.1	<p>The wording of Objective 8.1 does not align with the wording in section 6 of the RMA which requires protection of areas of <b>significant</b> indigenous vegetation and <b>significant</b> habitats of indigenous fauna.</p> <p>PMNZ considers Objective 8.1 should be amended so it is consistent with section 6 of the RMA.</p>	<p>Amend Objective 8.1:</p> <p><b>Objective 8.1 – <del>The intrinsic values of</del> Marlborough’s <del>remaining significant</del> indigenous biodiversity in terrestrial, freshwater and <del>marine</del> <u>coastal</u> environments <del>is</del> <b>are protected.</b></b></p>
Policy 8.3.1	<p>PMNZ considers that Policy 8.3.1 extends beyond the requirements of Policy 11 of the NZCPS and creates an unnecessarily high test for areas of the coastal environment</p>	<p>Amend Policy 8.3.1:</p> <p><b>Policy 8.3.1 – Manage the effects of subdivision, use or development in the coastal environment by:</b></p>

Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
	<p>that have not been identified as significant.</p> <p>Particularly, clause (c) of this policy could be applied to all areas of the coastal environment, which are not currently identified in the overlays as being within an ecologically significant marine site. This results in uncertainty for resource users.</p> <p>PMNZ considers that the method of mapping of ecologically significant sites within the coastal environment along with the NZCPS, is appropriate, and is sufficient to protect coastal values from the effects of subdivision, use and development.</p>	<p><b>(a) avoiding adverse effects where the areas, habitats or ecosystems are those set out in Policy 11(a) of the New Zealand Coastal Policy Statement 2010;</b></p> <p><del><b>(b) avoiding adverse effects where the areas, habitats or ecosystems are mapped as significant wetlands or ecologically significant marine sites in the Marlborough Environment Plan;</b></del></p> <p><b>(c) avoiding significant adverse effects and avoiding, remedying or mitigating other adverse effects where the areas, habitats or ecosystems <u>are mapped as significant wetlands or ecologically significant marine sites in the Marlborough Environment Plan</u> or are those set out in Policy 11(b) of the New Zealand Coastal Policy Statement 2010; or</b></p> <p><b>(d) creating a buffer (<u>where necessary</u>) to manage activities in proximity to an Ecologically Significant Marine Site in order to avoid adverse effects on the Ecologically Significant Marine Site.</b></p>
Policy 8.3.4	Policy 8.3.4 is attempting to guide plan users as to how Policies 8.3.1 and 8.3.2 are to be applied. Its application would be difficult during a resource consent process not only due to the number of matters to be assessed and considered	<p>Delete Policy 8.3.4 in its entirety:</p> <p><del><b>Policy 8.3.4 – In the context of Policy 8.3.1 and Policy 8.3.2, adverse effects to be avoided or otherwise remedied or mitigated may include:</b></del></p>

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	<p>(the policy lists clauses (a) – (t)), but also due to some clauses not being clear in their meaning.</p> <p>Of the twenty clauses, PMNZ considers at least eight can be deleted due to repetition of intent with other clauses. These are clauses (e), (k), (m), (n), (o), (q), (s) and (t). Deleting those matters already repeated in other parts of the PMEP removes duplication and the potential to over protect certain values.</p> <p>Several other clauses are unclear and it would be difficult to determine whether an activity achieved the clause or not (e.g. (r)).</p> <p>Policy 8.3.4 (even as amended) does not add more than the combined direction provided by Policies 8.3.1 and 8.3.2. This is particularly due to Policy 11 of the NZCPS (which is cross referenced in Policy 8.3.1) providing a clear list of those values which effects are to be managed in respect of.</p> <p>For these reasons, it is considered that the most appropriate way to achieve the relevant Objectives (Objective 8.1 and 8.3) is to delete Policy 8.3.4.</p>	<p><del>(a) fragmentation of or a reduction in the size and extent of indigenous ecosystems and habitats;</del></p> <p><del>(b) fragmentation or disruption of connections or buffer zones between and around ecosystems or habitats;</del></p> <p><del>(c) changes that result in increased threats from pests (both plant and animal) on indigenous biodiversity and ecosystems;</del></p> <p><del>(d) the loss of a threatened or at risk species or their habitats and species that are rare within the region or biogeographic area;</del></p> <p><del>(e) loss or degradation of wetlands, dune systems or coastal forests;</del></p> <p><del>(f) loss of mauri or taonga species;</del></p> <p><del>(g) impacts on habitats important as breeding, nursery or feeding areas, including for birds;</del></p> <p><del>(h) impacts on habitats for fish spawning or the obstruction of the migration of fish species;</del></p> <p><del>(i) impacts on any marine mammal sanctuary, marine mammal migration route or breeding, feeding or haul out area;</del></p> <p><del>(j) a reduction in the abundance or natural diversity of</del></p>

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		<p><del>indigenous vegetation and habitats of indigenous fauna;</del></p> <p><del>(k) loss of ecosystem services;</del></p> <p><del>(l) effects that contribute to a cumulative loss or degradation of habitats and ecosystems;</del></p> <p><del>(m) loss of or damage to ecological mosaics, sequences, processes or integrity;</del></p> <p><del>(n) effects on the functioning of estuaries, coastal wetlands and their margins;</del></p> <p><del>(o) downstream effects on significant wetlands, rivers, streams and lakes from hydrological changes higher up the catchment;</del></p> <p><del>(p) natural flows altered to such an extent that it affects the life supporting capacity of waterbodies;</del></p> <p><del>(q) a modification of the viability or value of indigenous vegetation and habitats of indigenous fauna as a result of the use or development of other land, freshwater or coastal resources;</del></p> <p><del>(r) a reduction in the value of the historical, cultural and spiritual association with significant indigenous biodiversity held by Marlborough's tangata whenua</del></p>

Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
		<p><del>iwi;</del></p> <p><del>(s) a reduction in the value of the historical, cultural and spiritual association with significant indigenous biodiversity held by the wider community; and</del></p> <p><del>(t) the destruction of or significant reduction in educational, scientific, amenity, historical, cultural, landscape or natural character values.</del></p>
Policy 9.1.1	<p>PMNZ is concerned that achieving Policy 9.1.1 may result in safety issues in those areas zoned Port, Port Landing and Marina. This is because Policy 9.1.1 seeks to encourage public access to the coastal marine area and as presently written, Policy 9.1.1 includes all parts of the coastal marine area including any areas zoned Port and Marina.</p> <p>The PMP needs to recognise that areas of the coastal marine area zoned Port, Port Landing or Marina are designed to enable the operational needs of ports and marinas to be met. Encouraging increased public access may be incompatible with established industry and/or future development. Therefore for health, safety and operational reasons, the enhancement of public access is not appropriate in some areas at Picton, Waikawa and Havelock.</p> <p>Excluding the Port, Port Landing and Marina Zones would be</p>	<p>Amend Policy 9.1.1:</p> <p><b>Policy 9.1.1 – The following areas are identified as having a high degree of importance for public access and the Marlborough District Council will as a priority focus on enhancing access to and within these areas:</b></p> <p>...</p> <p><b>(c) coastal marine area <u>zoned Coastal Marine</u>, particularly in and near Picton, Waikawa and Havelock, Kaiuma Bay, Queen Charlotte Sound (including Tory Channel), Port Underwood, Kenepuru Sound, Mahau Sound, Mahikipawa Arm and Croisilles Harbour, Rarangi to the Wairau River mouth, Wairau Lagoons, Marfells Beach and Ward Beach;</b></p>

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	<p>a useful distinction between those areas of the coastal marine area where public access should be enhanced, and those where the enhancement of public access is not appropriate, given the area's primary purpose. Any policies designed to increase and enhance public access should take into account the current activities (generally identified in the PMEP via their zoning such as Port, Port Landing or Marina) and whether enhancing public access would in fact be an appropriate aim for a particular zone. Therefore Policy 9.1.1 should be amended to refer to the coastal marine area zoned Coastal Marine, not all of the coastal marine area.</p>	
Policy 13.1.1	<p>PMNZ considers that Policy 13.1.1 is unnecessary as it duplicates other policies in the PMEP.</p> <p>Policy 13.1.1 should therefore be deleted as the matters addressed in Policy 13.1.1 are more appropriately managed in the respective Natural Character, Landscape, Biodiversity and Heritage chapters of the PMEP.</p>	<p>Delete Policy 13.1.1 in its entirety:</p> <p><b><del>Policy 13.1.1 – Protect against inappropriate subdivision, use and development activities on the characteristics and values of areas identified by avoiding:</del></b></p> <p><b><del>(a) adverse effects on areas of outstanding natural character;</del></b></p> <p><b><del>(b) adverse effects on areas of outstanding natural features and/or outstanding natural landscapes;</del></b></p> <p><b><del>(c) adverse effects on indigenous biodiversity values set out in Policy 11(a) of the New Zealand Coastal Policy Statement 2010;</del></b></p>

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		<p><del>(d) significant adverse effects on indigenous biodiversity values set out in Policy 11(b) of the New Zealand Coastal Policy Statement 2010; and</del></p> <p><del>(e) adverse effects on sites and places of significance to Marlborough's tangata whenua iwi.</del></p>
Policy 13.2.1	<p>PMNZ considers that clause (g) is intangible and that demonstrating compliance with this policy will be difficult because in many cases, the community's expectations will be widely varied.</p> <p>In any event, the community's values should already be represented in the provisions of the PMEP through the development of the PMEP as a whole. Other aspects of the community's values will be picked up during the consenting processes that will occur under the PMEP.</p>	<p>Amend Policy 13.2.1:</p> <p><b>Policy 13.2.1 – The appropriate locations, forms and limits of subdivision, use and development activities in Marlborough's coastal environment are those that recognise and provide for, and otherwise avoid, remedy or mitigate adverse effects on the following values:</b></p> <p><b>(a) the characteristics and qualities that contribute to natural character, natural features and landscape of an area;</b></p> <p><b>(b) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga;</b></p> <p><b>(c) the extensive area of open space within the coastal marine area available for the public to use and enjoy, including for recreational activities;</b></p> <p><b>(d) the importance of public access to and along the</b></p>



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		<p>coastal marine area, including opportunities for enhancing public access;</p> <p>(e) the dynamic, complex and interdependent nature of coastal ecosystems; and</p> <p>(f) the high level of water quality generally experienced in Marlborough's coastal waters;<sup>23</sup> and</p> <p><del>(g) those attributes that collectively contribute to individual and community expectations about coastal amenity values.</del></p>
Policy 13.2.6	<p>PMNZ is concerned that the communities' values about an area are often difficult to ascertain, and can be varied and conflicting. This means that demonstrating compliance with this policy may be difficult. Policy 13.2.6 will also be difficult to administer as it will be difficult to identify affected parties.</p> <p>In any event, the community's values should already be represented in the PMEP through the development of the PMEP as a whole. Other aspects of the community's values will be picked up during the consenting processes that will occur under the PMEP.</p>	<p>Amend Policy 13.2.6:</p> <p><b>Policy 13.2.6 – In determining the extent to which coastal amenity values will be affected by any particular subdivision, use and/or development, the following shall be considered:</b></p> <p><del>(a) individual and communities' values about the area subject to application;</del></p> <p><b>(b) the amenity related attributes of the area; and</b></p> <p><b>(c) in regard to the changing nature of the coastal environment, the extent to which amenity values would be so affected by the proposed subdivision, use or development that those values could no longer</b></p>

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		be maintained or enhanced.
Policy 13.3.4	<p>PMNZ supports Policy 13.3.4 and in particular the exclusion of the Port and Marina zones. However, PMNZ considers that the National Transportation Route should also be excluded from Policy 13.3.4. This is because the wording of Policy 13.3.4 is directive, and would inadvertently limit certain activities in the National Transportation Route that are required to be undertaken by PMNZ to deliver its services.</p> <p>Exempting the National Transportation Route from Policy 13.3.4 will result in more efficient and effective consenting processes as the intention of the policies will be clearly stated.</p>	<p>Amend Policy 13.3.4:</p> <p><b>Policy 13.3.4 – Ensure recreational use has priority over commercial activities that require occupation of the coastal marine area in Queen Charlotte Sound, including Tory Channel. (This policy does not apply to areas zoned Port or Marina <u>or the area within the National Transportation Route overlay.</u>)</b></p>
Policy 13.11.2	<p>Policy 13.11.2 does not acknowledge that ongoing development within the Port, Port Landing Area and Marina zones is appropriate. For example, the policy does not acknowledge the Marina zoned area of Waikawa Bay in which a marina is yet to be developed. ‘Development’ therefore also needs to be referenced in this policy. Reference to the Port Landing Area Zone also needs to be included.</p> <p>Further, there is no need to include reference to other relevant policies in Policy 13.11.2. These words are unnecessary as section 104 of the RMA requires regard to be</p>	<p>Amend Policy 13.11.2:</p> <p><b>Policy 13.11.2 – Reclamation or drainage in the coastal marine area shall be avoided, unless:</b></p> <p><b>(a) the activity to be carried out on the reclamation has to be adjacent to the coastal marine area; and</b></p> <p><b>(b) it can be shown there are no alternative land-based sites available (above Mean High Water Springs); or</b></p> <p><b>(c) the works are for the operational needs of ports <u>and development</u> within the Port <u>or Port Landing Area</u></b></p>

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	had to all the relevant provisions in the PMEP.	<p><b>Zones or for the operational needs of marinas and the development of marinas within Marina Zones, where they are consistent with other relevant policies of the Marlborough Environment Plan.</b></p>
Policy 13.18.4	PMNZ questions the necessity of this policy which simply outlines the rules contained in the PMEP. These provisions do not add anything to the PMEP. Policies should set out a course of action to achieve or implement an objective and do not need to re-state the rules.	<p>Delete Policy 13.18.4 in its entirety or amend as follows:</p> <p><b>Policy 13.18.4 – The environmental effects from activities within Port, Port Landing Area and Marina Zones are avoided, remedied or mitigated through the setting of standards so that:</b></p> <p><b>(a) vehicle parking, access and loading do not adversely affect the operation of the port/marina, road system or safe pedestrian movement;</b></p> <p><b>(b) signage enables public identification of port and marina operations but does not dominate the landscape;</b></p> <p><b>(c) structures and buildings in the various Port and Marina Zones do not dominate the landscape, particularly when having regard to visual effects as viewed from the adjoining zones in Picton and Havelock;</b></p> <p><b>(d) the location or height of buildings does not shade</b></p>

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		<p><del>sites in adjacent zones;</del></p> <p><del>(e) noise levels allow the zones to function effectively, but also minimise noise nuisance for surrounding residents; and</del></p> <p><del>(f) light spill does not occur in adjoining Urban Residential, Open Space and Business Zones.</del></p> <p><del>(g) appropriate landscaping of new roads, reserves and esplanade areas is created by subdivision.</del></p>
Policy 13.8.5	<p>PMNZ seeks the addition of a new rule in Chapter 14 of Volume 2 of the PMEP providing equivalent provisions for dredging as a permitted activity in the Port Landing Area Zone as those in the Port Zone. While the Port Landing Areas operate on a different scale than the main Port and provide for just a subset of full Port activities, the requirement to keep a clear vessel access channel and to maintain water depth alongside wharves and jetties within the Port Landing Area is the same as it is in the Port Zone. From time to time this requires maintenance dredging, generally of small volumes of material that builds up over time on the seabed and restricts bottom clearance for vessels.</p> <p>PMNZ therefore also seeks amendment to Policy 13.8.5 to include reference to the Port Landing Area zone as well as</p>	<p>Amend Policy 13.18.5:</p> <p><b>Policy 13.18.5 – Dredging for the maintenance of berths and identified navigation channels shall be recognised as an appropriate activity in Port, Port Landing Area and Marina Zones subject to standards to mitigate adverse effects, including those on navigational safety, water quality and aspects of the dredging operation, such as limits on the volume able to be dredged.</b></p> <p>Although an enabling approach has been taken to dredging in and around port and marinas, limitations will be placed on the amount of material able to be dredged to ensure that navigational safety is maintained and impacts on water quality are no more than minor.</p>

Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
	the Port and Marina zones for consistency.	
Policy 13.8.6	<p>PMNZ seeks the addition of a new rule in Chapter 14 of Volume 2 of the PMEP providing equivalent provisions for dredging as a permitted activity in the Port Landing Area Zone as those in the Port Zone. While the Port Landing Areas operate on a different scale than the main Port and provide for just a subset of full Port activities, the requirement to keep a clear vessel access channel and to maintain water depth alongside wharves and jetties within the Port Landing Area is the same as it is in the Port Zone. From time to time this requires maintenance dredging, generally of small volumes of material that builds up over time on the seabed and restricts bottom clearance for vessels.</p> <p>PMNZ therefore also seeks amendment to Policy 13.8.6 to include reference to the Port Landing Area zone as well as the Port and Marina zones for consistency.</p>	<p>Amend Policy 13.18.6:</p> <p><b>Policy 13.18.6 – Where dredging is proposed in Port, <u>Port Landing Area</u> and Marina Zones but exceeds specified volume limits or is associated with the construction of a new berth, the following matters will be considered:</b></p> <ul style="list-style-type: none"> <li><b>(a) the need for dredging, including the volume;</b></li> <li><b>(b) the length of time over which the dredging activity will occur;</b></li> <li><b>(c) how adverse effects of sediment disturbance and the release of contaminants into the surrounding environment will be mitigated; and</b></li> <li><b>(d) where the dredged material is to be disposed of or deposited. (Policies under Objectives 13.12a and 13.12b will also need to be considered if disposal/deposition is to occur within the coastal marine area.)</b></li> </ul> <p>Where the volume of material to be dredged exceeds that enabled through rules or where it is necessary in conjunction with the construction of a new berth, a resource consent will be required and the matters identified in this policy are to be</p>

Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
		considered through the decision making process. Additionally, the location of where the dredged spoil is to be disposed of must be identified in the application as resource consent requirements will exist. If disposal is to occur within the coastal marine area, policies under Objectives 13.12a and 13.12b also need to be considered.

**Volume 2 – Rules**

<p>Standard 2.33.1.1</p> <p>Table 2.1</p>	<p>The minimum requirement for retail activities under Table 2.1 is one for every 25m<sup>2</sup> of gross floor area, not one for every 50m<sup>2</sup> floor area per the Operative Marlborough Sounds Resource Management Plan (MSRMP).</p> <p>PMNZ considers that the minimum requirement should be amended to 50m<sup>2</sup> as per the MSRMP. One carpark for every 25m<sup>2</sup> is overly onerous and unnecessary, and may result in an inefficient use of prime marina or port zoned land for carparking. This is inappropriate in the coastal environment.</p>	<p>Amend Table 2.1:</p> <p><b>Table 2.1: Parking and Queuing Space Requirements</b></p> <table border="1" data-bbox="1285 746 2018 1380"> <thead> <tr> <th data-bbox="1285 746 1585 847">Activity</th> <th data-bbox="1585 746 2018 847">Minimum Requirements – Number of Spaces</th> </tr> </thead> <tbody> <tr> <td data-bbox="1285 847 1585 1380">Marina Activities</td> <td data-bbox="1585 847 2018 1380"> <p>Retail activities - One for every <u>25</u> 50m<sup>2</sup> of gross floor area of premises and one per two employees.</p> <p>Ship brokering and Boat hire/Chartering – One for every two employees the operation is designed to cater for.</p> <p>Marina – One for every two berths, 10% of which should be assigned to trailer parking.</p> </td> </tr> </tbody> </table>	Activity	Minimum Requirements – Number of Spaces	Marina Activities	<p>Retail activities - One for every <u>25</u> 50m<sup>2</sup> of gross floor area of premises and one per two employees.</p> <p>Ship brokering and Boat hire/Chartering – One for every two employees the operation is designed to cater for.</p> <p>Marina – One for every two berths, 10% of which should be assigned to trailer parking.</p>
Activity	Minimum Requirements – Number of Spaces					
Marina Activities	<p>Retail activities - One for every <u>25</u> 50m<sup>2</sup> of gross floor area of premises and one per two employees.</p> <p>Ship brokering and Boat hire/Chartering – One for every two employees the operation is designed to cater for.</p> <p>Marina – One for every two berths, 10% of which should be assigned to trailer parking.</p>					

Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)	
		Port Activities: <u>One space for every 50m2 of gross floor area of building, except for:</u>	Car and Ship hire/Chartering – One space for every two staff members the operation is designed to cater for.  Marina – as specified for Marina Activities above.
Rule 2.34.1	While PMNZ agrees it is important that Council can control large areas of car parking and assess the impact of vehicle movements and visual appearance, amongst other matters, it is considered that the most appropriate activity status for carparks with more than 75 spaces is a restricted discretionary activity, as opposed to full discretionary activity, with discretion restricted to effects on the roading network and visual appearance.	Amend activity status of Rule 2.34.1:  Change activity status for car parks with more than 75 spaces from discretionary activity to restricted discretionary activity.	
Standard 2.36.1.6  Standard 2.36.1.12	These rules, as proposed, would impose unnecessary restrictions and create a complex approach to the siting of signs. In a Port Zone context, they would create significant challenges, where directional signage is required and viewing distances at times may be limited by the nature of the Zone. In addition, the speed environment in the Port Zone is low, meaning risk around motorists viewing signs is lower.  In general, PMNZ considers that the most appropriate management of signage within the Port Zone is by the port	Amend Standard 2.36.1.6:  2.36.1.6 A sign ( <u>except any sign within the Port Zone</u> ) must be erected to present an unrestricted view to the motorist for the applicable minimum distance shown in Table 2.11.	

Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)														
	<p>operator, who is best placed to assess the requirements of their site, as opposed to restrictions in the PMEP.</p> <p>PMNZ considers these provisions should be amended to exempt them from applying in the Port Zone.</p>	<p><b>Table 2.11: Minimum Visibility Distance to Signs</b></p> <table border="1" data-bbox="1323 387 1984 655"> <thead> <tr> <th>Regulatory Speed Limit (kph)</th> <th>Visibility Distance (m)</th> </tr> </thead> <tbody> <tr> <td>0-50</td> <td>80</td> </tr> <tr> <td>51-70</td> <td>130</td> </tr> <tr> <td>71-80</td> <td>175</td> </tr> </tbody> </table> <p>Amend Standard 2.36.1.12:</p> <p>2.36.1.12 The minimum distance between signs (<u>except any sign in the Port Zone</u>) on successive properties, as read from the one direction and measured parallel to the centre-line of the road, must be as shown in Table 2.12:</p> <p><b>Table 2.12: Minimum Distance Between Signs</b></p> <table border="1" data-bbox="1323 1043 1984 1257"> <thead> <tr> <th>Regulatory Speed Limit (kph)</th> <th>Minimum Distance Between Signs (m)</th> </tr> </thead> <tbody> <tr> <td>70-80</td> <td>70</td> </tr> <tr> <td>11-100</td> <td>80</td> </tr> </tbody> </table>	Regulatory Speed Limit (kph)	Visibility Distance (m)	0-50	80	51-70	130	71-80	175	Regulatory Speed Limit (kph)	Minimum Distance Between Signs (m)	70-80	70	11-100	80
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11-100	80															
Standard 2.37.7.1	The Port Zone is not built based on amenity, but rather is a working port, and a logistical hub for regionally significant	<p>Delete port from Standard 2.37.7.1:</p> <p><b>2.37.7. Sign on any land zoned Business 1, Business 2,</b></p>														



Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
New standard under 2.37.7	<p>infrastructure in the region. Decisions on the appropriateness of signage should be based on what is appropriate and necessary to adequately and safely carry out the activities that are occurring in the Zone. This can be best managed by the port operator.</p> <p>Numerous operators within the zone all have signage requirements, predominantly for directional, safety or identification purposes. Requiring one sign per “site” or “property”, however these are defined, is onerous and unworkable in this instance.</p> <p>Controls over signage in the Port Zone should generally only be imposed where effects outside of the zone are likely.</p>	<p><b>Industrial 1 Industrial 2, Port, Port Landing Area, Marina, Lake Grassmere Salt Works or Airport.</b></p> <p>2.37.7.1. The maximum total area of a sign on any site (not including any that are painted or fixed directly onto a building that do not alter the existing profile of the building) must not exceed 6m2 on any land zoned Business 1, Industrial 1, Industrial 2, Port, Port Landing Area, Marina, Lake Grassmere Salt Works or Airport.</p> <p>Add new standard under Rule 2.37.7:</p> <p><u>2.37.7.9 In the Port Zone, no limit is imposed on the number or area of signs provided they are related solely to activities permitted in the Port Zone.</u></p>
Rule 13.1.4 Standard 13.3.1	<p>The port is utilised for the delivery of goods and people to Picton, as well as the dispatching of goods from Picton onto ships for transportation elsewhere. It is therefore imperative that all transportation of goods by ship to and from the port is provided for in this rule, as a permitted activity.</p> <p>Further, PMNZ opposes the exclusion of wood and forestry cargo from this rule because a large part of PMNZ’s business relates to supporting forestry exports from Marlborough and this is appropriate in a Port Zone. This cargo comprises a substantial part of PMNZ activities and some limited</p>	<p>Amend Rule 13.1.4:</p> <p><b>13.1.4 Processing of cargo (except wood or forestry) that is delivered by ship to the Port for processing.</b></p> <p>Amend Standard 13.3.1:</p> <p><b>13.3.1 Processing of cargo (except wood or forestry) that is delivered by a ship to a port for processing.</b></p>

Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
	<p>processing of this cargo is required to take place at the port. Provision for appropriate processing of logs and timber products should be anticipated by the PMEP to enable economically efficient logistics management for forestry and timber export activities.</p> <p>PMNZ also notes that the processing of cargo takes place with cargo that is either delivered by ship to the port or transported to the port by means other than a ship and will then be loaded onto a ship at port. This rule should provide for both of these scenarios.</p>	
<p>Rule 13.1.49</p> <p>New rule under 13.1</p>	<p>PMNZ is concerned about the mix of zoning provided at Havelock, given the Marina Zone does not have any water space and the marina activities within the coastal marine area are zoned Port. However, PMNZ accepts that, aside from the water area which is used as a marina, the zoning does largely reflect the uses taking place in this area.</p> <p>To ensure that all activities can continue to operate effectively and efficiently at Havelock, PMNZ seeks that commercial activities ancillary to marina activities are provided for as a permitted activity at the Port Zone at Havelock.</p> <p>PMNZ also seeks that 13.1.49 is amended to expressly include a café or restaurant, so that 13.1.49 is consistent with</p>	<p>Amend Rule 13.1.49:</p> <p><b>13.1.49 Commercial boat related tourist activity or a tourist operator service <u>(including a cafe or restaurant)</u> (Havelock Port only).</b></p> <p>Add new rule under 13.1:</p> <p><b><u>13.1.53 Commercial activities ancillary to marina activities (Havelock only).</u></b></p>

Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
	rule 15.1.4 which provides for commercial related tourist activities or tourist operator services in the Marina zone.	
Standard 13.3.6	Amendment is required to standard 13.3.6 to ensure that it is clear that rule 13.2.1 takes priority over rule 13.3.6.	Amend Standard 13.3.6: <b>13.3.6 Maintenance, repair or replacement and use of a building or structure in the coastal marine area <u>except as provided for under 13.2.1</u>, and for permitted activity purposes, the construction, use maintenance, repair or replacement of a building or structure on existing wharves.</b>
Standard 13.3.20.3	PMNZ considers that it is imperative that PMNZ and its customers are able to use the Port Zone in an unencumbered way, unless there is a very good environmental reason not to do so.  While PMNZ accepts the presence of the Ecological Significant Marine Sites ( <b>ESMSs</b> ) and that any indigenous vegetation clearance within the ESMSs would be excluded from the rule, PMNZ is concerned that the additional controls outside of the ESMSs will restrict PMNZ's operations.	Amend Standard 13.3.20.3:  13.3.20.3. Clearance of indigenous vegetation within the coastal environment must not occur on land above mean high water springs that is within <del>20m</del> of an Ecologically Significant Marine Site.
Standard 13.3.20.4	The 'coastal environment' is defined as being all water areas and all landward areas to the ridge of the landform adjoining the water. This will likely apply to all land within the Port zones. PMNZ's concern is that a considerable amount of	Amend Standard 13.3.20.4:  13.3.20.4 <u>Other than for the purposes of maintenance</u> , clearance of indigenous vegetation within the coastal

Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
	<p>self-seeding vegetation occurs within the Port zone and it would be inefficient to require a resource consent for the removal of any of this vegetation.</p> <p>PMNZ considers that it is useful to describe what type of indigenous vegetation clearance is appropriate in the Port zone, particularly in relation to what constitutes “clearance” as opposed to maintenance as “clearance” is not defined in the PMEP.</p>	<p>environment must not include the following habitats/species...</p>
<p>Rule 13.4.2</p> <p>Matters of Discretion</p> <p>13.4.2.3</p>	<p>PMNZ seeks the deletion of 13.4.2.3 as while PMNZ considers that consideration of cultural values is appropriate for activities which affect the seabed and other parts of the natural environment, it is not necessary for commercial activities within the Port Zone.</p> <p>PMNZ is particularly concerned that with no list of culturally important sites or values identified within locations which are heavily developed like the Port Zone, the consideration of cultural values in the context of a proposed commercial activity is difficult.</p>	<p>Delete Matter of Discretion 13.4.2.3 under Rule 13.4.2:</p> <p><b>13.4.2. Commercial activity not otherwise provided for in the Port Zone.</b></p> <p><i>Matters over which the Council will exercise discretion:</i></p> <p>13.4.2.1. The potential for reverse sensitivity effects on existing permitted activities within the Port Zone.</p> <p>13.4.2.2. The extent to which the activity is an efficient use of the site given its location within the coastal environment.</p> <p><del>13.4.2.3 Effects on the cultural values of Marlborough's tangata whenua iwi.</del></p>
<p>Rule 13.4.5</p> <p>Matters of Discretion</p>	<p>PMNZ consider that the term ‘integrity’ is unclear, and considers the clause should directly address the effects on significant terrestrial or marine ecology only.</p>	<p>Amend Matters of Discretion 13.4.5.7 and 13.4.5.9 under Rule 13.4.5:</p> <p>13.4.5.7 Effects on the integrity of any significant terrestrial or</p>

Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
13.4.5.7 and 13.4.5.9	PMNZ also considers that clause 13.4.5.9 requires amendment to ensure it only applies to construction in relation to reclamation activities.	marine ecosystems. ... 13.4.5.9 Restrictions on public access during the <del>operation</del> <u>construction activities</u> .
Rule 13.6.8  Definition of noise sensitive activity	The definition of 'noise sensitive activity' is vague and may inadvertently restrict legitimate and/or permitted uses in the Port zone.	Amend Rule 13.6.8:  <b>13.6.8. New noise sensitive activity <u>or alteration or addition to an existing building that will be used for a noise sensitive activity</u> within the mapped Inner Noise Control Boundary at the port of Picton and Shakespeare Bay and at Havelock.</b>  Amend definition of Noise sensitive activity:  <b>Noise sensitive activity</b>  means any use of land and/or buildings that is likely to be susceptible to the effects of noise emitted from nearby land uses in the course of their legitimate operation and functioning. <del>Examples include</del> <u>Noise sensitive activities are</u> dwellings, visitor accommodation, hospitals, health care and medical centres, residential care housing, educational institutions, structures for the purpose of, or activities involving public assembly. <u>This definition excludes those activities that are permitted, controlled or restricted discretionary activities in</u>

Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
		<p><u>the Port and Port Landing zones, and at Havelock also excludes those activities that are permitted in the Marina Zone.</u></p>
<p>New permitted activity rules under 14.1, new associated standards under 14.3 and a new definition of Microfouling</p>	<p>Wet sanding and manual scraping of anti-fouling paints is not provided for in the Port Landing Area Zone.</p> <p>Manual scraping activities are permitted in the Marina Zone (Rule 15.1.7 and Standard 15.3.3) and in the Port Zone (through Rule 13.1.11 and Standard 13.3.4).</p> <p>PMNZ seeks a new permitted activity rule and associated performance standard as per 13.1.11 and 13.3.4 of the Port Zone, to provide for the manual scraping and wet sanding of anti-foul paint for the purpose of removal, and any associated discharge to air. This is required for the port activities.</p>	<p>Add new rule under 14.1:</p> <p><b><u>14.1.26 In-water cleaning and removal of microfouling of ships, moveable structures of navigation aids.</u></b></p> <p>Add new standards under 14.3:</p> <p><b><u>14.3.17 In-water cleaning and removal of microfouling of ships, moveable structures of navigation aids</u></b></p> <p><u>14.3.17.1 The anti-foul coating on the vessel, moveable structure or navigation aid shall not have exceeded its planned service life as specified by the manufacturer; and</u></p> <p><u>14.3.17.2 The cleaning method shall be undertaken in accordance with the coating manufacturer's recommendations; and</u></p> <p><u>14.3.17.3 The cleaning or treatment method shall capture any biological material released into the water column greater than 50µm in diameter, with any captured cleaning debris disposed on land; and</u></p> <p><u>14.3.17.4 Any captured cleaning debris is appropriately disposed of; and</u></p>

Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
		<p><u>14.3.17.5 If suspected harmful or unusual aquatic species are found, the vessel owner or operator shall take the following steps:</u></p> <p><u>(i) Any cleaning activities shall cease immediately;</u></p> <p><u>(ii) The Harbourmaster shall be notified within five working days; and</u></p> <p><u>(iii) The cleaning may not recommence until notified by the Council to do.</u></p> <p><u>Add new rules and associated standards with the same text as above in Chapters 13: Port Zone, 15: Marina Zone and 16: Coastal Marine Zone with different numbering.</u></p> <p><u>Include a new definition for microfouling as follows:</u></p> <p><u>Microfouling means a layer of microscopic organisms including bacteria and diatoms and the slimy substances they produce. Often referred to a 'slime layer', microfouling can usually be removed by gently passing a finger over the surface.</u></p>
New permitted activity under 14.1 and associated standards under 14.3	It is unclear why there is no rule providing for indigenous vegetation clearance in the Port Landing Area Zone when there is a rule relating to non-indigenous vegetation.	<p>Add new rule under 14.1:</p> <p><b><u>14.1.27 Indigenous vegetation clearance</u></b></p> <p>Add new standard under 14.3:</p>

Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
		<p><b><u>14.3.18 Indigenous vegetation clearance</u></b></p> <p><u>14.3.18.1 Clearance of indigenous vegetation within the coastal environment must not occur on land above mean high water springs that is within an Ecologically Significant Marine Site.</u></p>
<p>New permitted activity under 14.1 and associated standards under 14.3</p>	<p>It is unclear why there is no rule providing for dredging in the Port Landing Area Zone.</p> <p>The purpose of the Port Landing Area facilities is to provide for safe and efficient loading and landing of cargo and supplies primarily associated with Marlborough's aquaculture industry. Both Port Landing Areas are located remotely in the Marlborough Sounds and as a consequence present economic and logistical challenges to maintain. However, they are an important part of the infrastructure required to support aquaculture in Marlborough and therefore they remain part of PMNZ's infrastructure portfolio.</p> <p>While the Port Landing Areas operate on a different scale than the main Port and provide for just a subset of full Port activities, the requirement to keep a clear vessel access channel and to maintain water depth alongside wharves and jetties within the Port Landing Area is the same as it is in the Port Zone. From time to time this requires maintenance</p>	<p>Add new rule under 14.1:</p> <p><b><u>14.1.28 Dredging, and associated disturbance to the foreshore and seabed, within the Port Landing Area Zone.</u></b></p> <p>Add new standards under 14.3:</p> <p><b><u>14.3.19 Dredging, and associated disturbance to the foreshore and seabed, within the Port Landing Area Zone.</u></b></p> <p><u>14.3.19.1 No more than 1,000m<sup>3</sup> of foreshore and seabed material, including but not limited to sand, shell or shingle (except live vegetation), must be removed by any person within a calendar year.</u></p> <p><u>14.3.19.2 The purpose of the dredging must be to maintain the water depth level of a navigational channel.</u></p> <p><u>14.3.19.3 At least 10 working days prior to the commencement of dredging activity, Maritime New Zealand and the Council must be advised in writing of the nature and duration of the intended works.</u></p>



Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
	<p>dredging, generally of small volumes of material that builds up over time on the seabed and restricts bottom clearance for vessels.</p> <p>PMNZ considers that the Port Landing Areas of the PMEP should include equivalent maintenance dredging provisions to the Port Zone. Given their smaller physical scale, PMNZ considers a maintenance dredging quantity of 1,000m<sup>3</sup> per facility per annum (subject to standards) is an appropriate permitted volume given the highly modified nature of these areas, and the need for maintenance dredging to enable the activities anticipated by these zones.</p> <p>PMNZ also considers that any proposed dredging in excess of a permitted volume of 1,000m<sup>3</sup> within a Port Landing Area should quite properly be subject to a resource consent process.</p>	<p><u>14.3.19.4 The depth of any seabed disturbance must be limited to the amount necessary to maintain water depth levels.</u></p> <p><u>14.3.19.5 Dredged material must not be deposited within the coastal marine area.</u></p> <p><u>14.3.19.6 The activity must not adversely affect navigational safety.</u></p> <p><u>14.3.19.7 There must be no contaminants released from equipment being used for the activity.</u></p>
Rule 15.1.3	<p>In both Picton and Havelock, the availability of appropriately serviced industrial and commercial land is fairly limited. Under these local circumstances, the effect of tightly constraining the types of activities that are able to take place in the Port and Marina Zones in Marlborough would, in PMNZ's view, put up unnecessary barriers to efficient day to day activity within the Port, Marinas and the associated townships of Havelock and</p>	<p>Amend Rule 15.1.3:</p> <p><b><u>15.1.3 Commercial activities related to marina activities, including but not limited to: Commercial ship brokering, charter boat hire services, chandlery and sail making services.</u></b></p>

Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
	<p>Picton, and of Waikawa.</p> <p>It is in the interests of the Port, PMNZ's customers and other stakeholders that PMNZ are able to manage a mix of activities within the Port and Marina precincts that are consistent with the needs of PMNZ customers and the local economy of Marlborough, provided that the environmental effects of such activities are appropriately managed. In PMNZ's view, the balance of supply and demand of land adjacent to the waterfront efficiently takes care of land use. As activities that have a greater need for proximity to the water arise, other less critical activities are pushed further back, and in some cases, off the Port or out of the Marina. The requirement to have land lying fallow that may otherwise be providing an economic return and supporting regional economic activity is not an efficient use of resources. There should not be consenting barriers to activities on underutilised land in the Port and Marina zones where the effects of those activities are appropriate in terms of the overlying zoning.</p> <p>PMNZ considers that Rule 15.1.3 will unnecessarily limit the range of commercial activities that can take place within the Marina zone.</p> <p>Rule 15.1.3 needs to be broadened to provide for commercial activities related to marina activities and to ensure that day to</p>	

Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
	day port and marina activities are provided for in the PMEP without unnecessary controls.	
Rule 15.1.24	PMNZ considers the dredging rules to be appropriate for the Marina Zone. However, a minor word change is sought to better define the location of the marina entrance.	Amend Rule 15.1.24:  <b>15.1.24 Dredging and associated disturbance to the foreshore and seabed, to maintain water depth levels in and around berths and the <del>mouth of</del> <u>entrance to the marina, as necessary for ship berthage, manoeuvring and transit.</u></b>
New permitted activity rule under 15.1 and associated standards under 15.3	PMNZ notes that Rule 15.1.29 provides for non-indigenous vegetation clearance, however there is no rule to permit the clearance of indigenous vegetation. PMNZ questions the omission of a rule enabling limited indigenous vegetation clearance, particularly when other zones, including the Open Space 3 zone, provides for this activity.	Add new rule under 15.1:  <b><u>15.1.38 Indigenous vegetation clearance</u></b>  Add new standard under 15.3:  <b><u>15.3.25 Indigenous vegetation clearance</u></b>  <u>15.3.25.1 Clearance of indigenous vegetation within the coastal environment must not occur on land above mean high water springs that is within an Ecologically Significant Marine Site.</u>
Standard 15.2.3.2	PMNZ is concerned that the proposed noise rule for the Marina Zone may unnecessarily restrict its activities in this zone.  Noise limits of 55/45 dB $L_{Aeq}$ during the day/night are appropriate for the interface between the Marina Zone and	Amend Standard 15.2.3.2:  15.2.3.2. An activity undertaken within the Marina Zone must be conducted to ensure that noise when measured at any point within any <u>site zoned</u> Urban Residential 2 or Business 1 <u>Zone</u> or <del>at any point within the</del> notional boundary of any

Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)						
	residential sites.	<p><del>dwelling of any</del> site zoned Open Space 1, Coastal Living or Coastal Environment does not exceed the following limits:</p> <table border="1" data-bbox="1339 371 1966 576"> <tr> <td data-bbox="1339 371 1532 475">7.00 am to 10.00 pm</td> <td colspan="2" data-bbox="1532 371 1966 475">55dB LAeq</td> </tr> <tr> <td data-bbox="1339 475 1532 576">10.00 pm to 7.00 am</td> <td data-bbox="1532 475 1682 576">45dB LAeq</td> <td data-bbox="1682 475 1966 576">75dB LAFmax</td> </tr> </table>	7.00 am to 10.00 pm	55dB LAeq		10.00 pm to 7.00 am	45dB LAeq	75dB LAFmax
7.00 am to 10.00 pm	55dB LAeq							
10.00 pm to 7.00 am	45dB LAeq	75dB LAFmax						
<p>Standard 15.3.2.1</p> <p>Rule 15.4.3</p>	<p>PMNZ considers that the blanket exclusion of abrasive blasting is overly onerous. PMNZ considers that abrasive blasting is an activity that should be able to occur within the Marina zone, provided the contaminants arising from the activity are appropriately managed, and the activity does not occur within the coastal marine area.</p> <p>As a consequence, the activity status of discharge of contaminants to air from water blasting or from dry abrasive blasting, other than from the use of a moveable source from any industrial or trade premise under Rule 15.4.3 should be changed from a controlled to a permitted activity.</p>	<p>Amend Standard 15.3.2.1:</p> <p>15.3.2.1 The activity must not involve any abrasive blasting <u>within the coastal marine area.</u></p> <p>Amend activity status of Rule 15.4.3:</p> <p>Change activity status of discharge of contaminants to air from water blasting or from dry abrasive blasting, other than from the use of a moveable source from any industrial or trade premise from controlled activity to permitted activity.</p> <p><del>15.4.3 Discharge of contaminants to air from water blasting or from dry abrasive blasting, other than from the use of a moveable source from any industrial or trade premise.</del></p> <p>15.1.39 Discharge of contaminants to air from water blasting or from dry abrasive blasting, other than from the use of a moveable source from any industrial or trade premise.</p>						

Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
Standard 15.3.5.2	PMNZ seeks amendment to this standard so it only applies to existing buildings and does not unnecessarily restrict PMNZ's development plans.	Amend Standard 15.3.2.2:  15.3.5.2. <u>For existing buildings in the coastal marine area</u> , there must be no increase in the height, size or scale of a building or structure.
Standard 15.3.13	PMNZ seeks a minor amendment to the description of the 'entrance' to marinas to better define the location of the marina entrance.	Amend Standard 15.3.13:  <b>15.3.13 Dredging and associated disturbance to the foreshore and seabed, to maintain water depth levels in and around berths and the <del>mouth of</del> entrance to the marinas, as necessary for ship berthage, manoeuvring and transit.</b>
Rule 15.5.1  Standards and terms 15.5.1.1 and 15.5.1.2	PMNZ considers further clarification should be provided in this rule to ensure that buildings and structures associated with permitted activities in the Marina zone are provided for.  PMNZ considers that any extension of an existing building in that part of the Marina Zone in Waikawa Bay identified in Appendix 10 should also comprise a restricted discretionary activity. The extension would still need to remain in compliance with standard 15.2.1.8 to remain a restricted discretionary activity.	Amend Standards 15.5.1.1 and 15.5.1.2 under Rule 15.5.1:  <i>Standards and Terms</i>  15.5.1.1 The building or structure (or extension thereof) must be necessary for <u>or ancillary to the</u> operational requirements of the marina <u>or an activity permitted in the Marina Zone</u> .  15.5.1.2 <del>The building or structure (or extension thereof) must not be located</del> In that part of the Marina Zone in Waikawa Bay identified in Appendix 10, <u>this rule only applies to the extension of an existing building</u> .
Rule 15.5.3  Standards and terms	PMNZ considers that the application of this rule is unnecessarily limited and should be broadened to apply to all	Amend Standards 15.5.3.1 and 15.5.3.3 under Rule 15.5.3:

Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
<p>15.5.3.1 and 15.5.3.3</p> <p>New matter of discretion under 15.5.3</p>	<p>activities permitted within the Marina zone, including with the Marina Zone identified in Appendix 10.</p> <p>Further, PMNZ considers that it is appropriate to include an additional matter of discretion to consider the positive effects of the reclamation activity.</p>	<p><i>Standards and Terms</i></p> <p>15.5.3.1 The reclamation must be necessary for the operation of the marina, <u>or an activity permitted in the Marina Zone.</u></p> <p>...</p> <p><del>15.5.3.3. The reclamation of the foreshore or seabed must not be located in that part of the Marina Zone in Waikawa Bay identified in Appendix 10.</del></p> <p>Include an additional matter of discretion under Rule 15.5.3:</p> <p><u>15.5.3.12 Social, economic, cultural or recreational benefits resulting from the activity.</u></p>
<p>Rule 16.5.1</p>	<p>The decisions version of Rule 16.5.1 does not fully reflect the outcomes of Plan Change 21 of the MSRMP which provided for a change in extent to the marina zone along with the introduction of a series of Moorings Management Areas (<b>MMA</b>) and a Waka Mooring Management Area (<b>WMA</b>) in Waikawa Bay. The MMA and WMA were introduced to enable efficient use of the coastal marine area for swing moorings by reducing the sprawl of swing moorings throughout the Bay while ensuring that swing circles of consented moorings did not overlap more than safety measures allow. The MMA and WMA in Waikawa Bay were carefully located and designed to ensure existing moorings</p>	<p>Amend Rule 16.5.1:</p> <p><b>16.5.1 A swing mooring within a Moorings Management Area or a waka swing mooring within a Waka Mooring Management Area where no bylaw is in place that has established a licencing system for the allocation and management of swing moorings.</b></p> <p><del>Any application for Resource Consent under Rule 16.5.1 will require public notification.</del></p>

Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
	<p>could be relocated, without allowing new moorings in the Bay (unless they provided access to property).</p> <p>Plan Change 21 specifically provided that resource consents for swing moorings in MMA and WMA would be processed without public notification as the process of establishing the MMA/WMA was the appropriate time for public to have input.</p> <p>PMNZ considers that applications for resource consent under Rule 16.5.1 should be considered under s95A of the RMA as opposed to the PMEP pre-empting the notification of such applications. This is consistent with other provisions in the PMEP.</p>	
Standard 19.3.3.3	<p>PMNZ considers the standards that apply to indigenous vegetation clearance for the Open Space 3 zone are generally appropriate for managing the actual and potential effects of these activities. However, PMNZ does not consider that the exclusion of vegetation clearance activities within 20m of ESMSs is justified, particularly with regard to the ESMSs that are located within the coastal marine area.</p> <p>Further, PMNZ considers the reference to the Threatened Environments – Indigenous Vegetation Sites should be removed from Standard 19.3.3.3 for consistency with the relief sought and reasons set out below in relation to the</p>	<p>Amend Standard 19.3.3.3:</p> <p>19.3.3.3. Clearance of indigenous vegetation within the coastal environment must not occur:</p> <p><del>(a) On land identified on the Threatened Environments – Indigenous Vegetation Sites;</del></p> <p>(a) <del>(b)</del> On land above mean high water springs that is within <del>20m</del> of an Ecologically Significant Marine Sites.</p>

Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
	Threatened Environment Overlay (TEO).	
Port Engineering Activity	<p>PMNZ is concerned that where small scale retailing of, for instance, boat parts and equipment, is carried out as part of a port engineering workshop, then this retail component may not be included in the definition of port engineering. It is considered practicable to include this limited retail as part of this activity.</p> <p>PMNZ considers that the definition of Port Engineering Activity should therefore be amended to enable retail activities associated with and/or ancillary to the port engineering activity such as minor/ancillary retail, food kiosks and industrial activities related to port activities in this definition as they are all expected parts of port activities.</p>	<p>Amend definition of Port Engineering Activity:</p> <p><b>Port Engineering Activity</b></p> <p>means engineering activity associated with ship building, repair and maintenance activities, and other engineering activities necessary for the operational requirements of Permitted Activities within the Port Zone including associated: equipment servicing and repair; <i>abrasive blasting</i>; body and engine repairs; panel beating; fibre-glassing; painting; powder coating and spray painting; <u>minor/ancillary retail</u>; food kiosks; <u>industrial activities related to port activities</u>.</p>
<b>Volume 4 – Maps</b>		
Zone Map 35 – Picton	PMNZ seeks that the Open Space 1 Zone land immediately adjacent to the Marina Zone at Picton (near 39 and 41 Waikawa Road) be re-zoned Marina Zone in order to reflect the activities taking place on this land. A strip of Open Space 1 Zoned land will be retained between the Marina Zone and the Urban Residential 2 Zone.	Rezone area of Open Space 1 Zone to Marina Zone.
Zone Map 36 – Shakespeare Bay	PMNZ considers that the narrow strip of Open Space 3 zone that separates the Port Zone and the Coastal Environment	Rezone the narrow strip of Open Space 3 Zone which separates the Port Zone from the Coastal Environment Zone

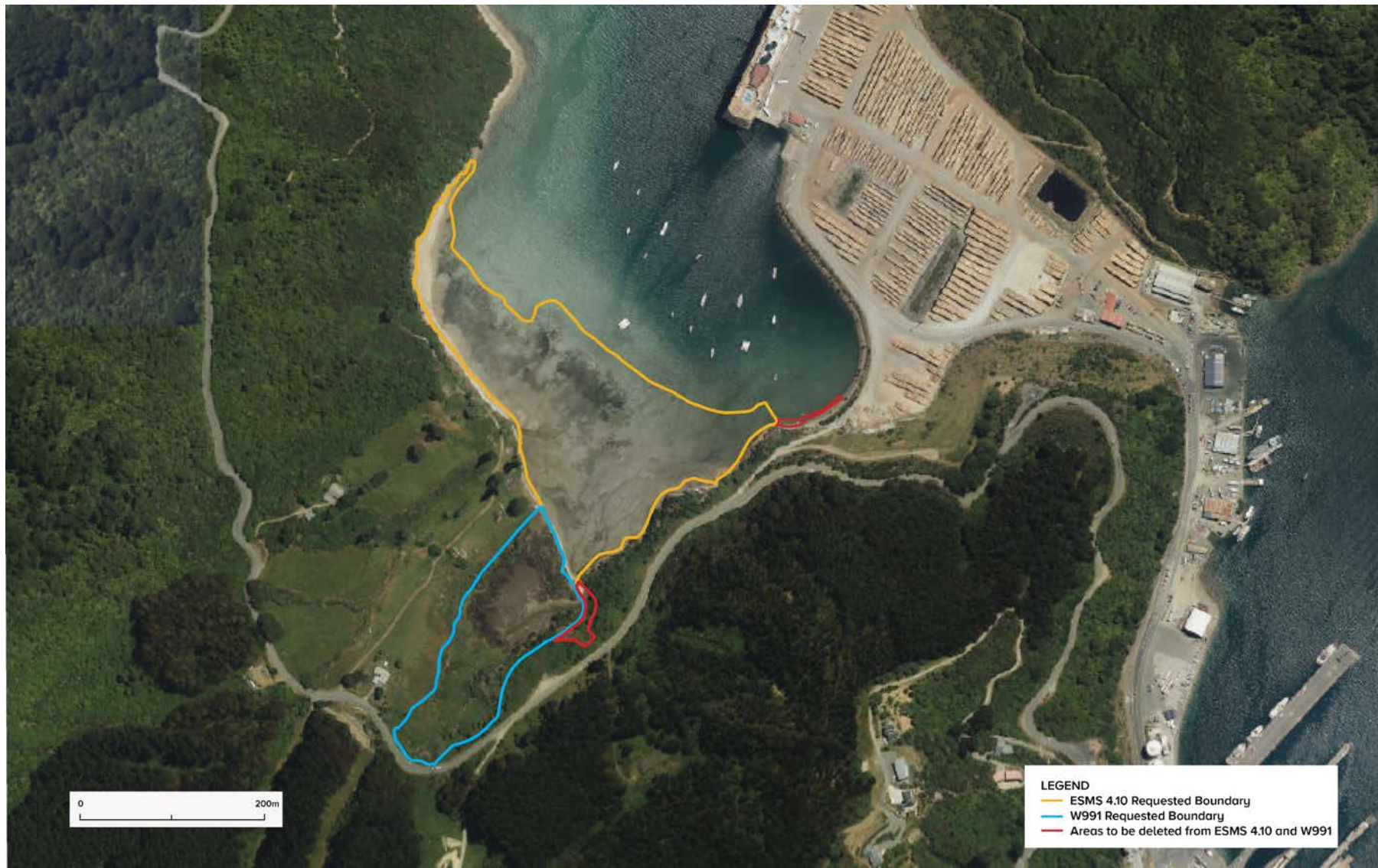


Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
	<p>Zone at Shakespeare Bay is unnecessary and it will be difficult to manage this narrow strip given the different outcomes sought by the adjoining two zones.</p> <p>While it has been zoned Open Space 3 to provide for access in this area, the zoning does not align with the intended pathway for this area.</p>	to Port Zone.
Zone Map 138 – W991	While it is important the rule framework ensures the identified values of W991 PMNZ considers that the existing Port Zone rules, objectives and policies and the wider PMEP objectives and policies provide sufficient protection of the values of W991.	Rezone the wetland (W991) from Open Space 3 to Port Zone.
Threatened Environments Overlay – Chapter 8 Indigenous Biodiversity	<p>The Threatened Environment Overlay (<b>TEO</b>) applies to the Coastal Environment Zone and in some areas in proximity to PMNZ's assets including much of Havelock township, Picton (including Shakespeare Bay) and Waikawa. While the TEO has been pulled back from various zones, it still applies to the Rural, Coastal Environment, Open Space 1, Open Space 2, Open Space 3, Open Space 4 zones. PMNZ considers that this overlay should be deleted as it does not accurately represent areas of threatened indigenous vegetation sites.</p> <p>The TEO is a blunt instrument and is unlikely to assist in achieving enhanced biodiversity commensurate with the costs</p>	Remove all reference to the Threatened Environments and the maps from the PMEP.

Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
	<p>of imposing such restrictions. There are several other more precise methods proposed in the PMEP to control indigenous vegetation clearance in those areas where values are high and these will more efficiently ensure Objective 8.1 is achieved.</p>	
W991 – Shakespeare Bay	<p>The PMEP identifies a significant wetland, referenced as W991, in Shakespeare Bay on land owned by PMNZ. This wetland is immediately adjacent and connected to the ESMS 4.10.</p> <p>The PMEP includes a small area shown in Attachment A to this table as included as part of W991. PMNZ considers this area does not have significant wetland values and should not be included in the extent of W991.</p> <p>Given the strategic significance of this area, it is important that, where the PMEP imposes restrictions on development on sites with ecological significance, those sites are accurately recorded in the Plan. PMNZ's future development needs in this area should not be unduly constrained by the identification of land as a significant wetland where that land does not have significant wetland values.</p>	Amend the boundary of wetland W991 as depicted at Attachment A to this table.

Provision Appealed	Reasons	Relief sought (or such other relief as addresses the concerns raised)
ESMS 4.10	<p>ESMS 4.10 is partly within the Port Zone. It is imperative that PMNZ and its customers are able to use the Port Zone in an unencumbered way, unless there is a very good environmental reason not to do so.</p> <p>The PMP includes a small area utilised for logging purposes as part of ESMS 4.10. PMNZ considers the extent of ESMS 4.10 should be amended to exclude this area from ESMS 4.10 because it does not have ecological significance such that it requires protection by ESMS 4.10.</p>	Amend the boundary of ESMS 4.10 so that it does not include the area depicted at Attachment A to this table.

Attachment A: Requested extent of W991 and ESMS 4.10



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Form 7

Notice of Appeal against decision on proposed policy statement or plan