

# **Proposed Marlborough Environment Plan**

**Section 42A Hearings Report for Hearing Commencing 9<sup>th</sup>  
April 2018**

**Report dated 12<sup>th</sup> March 2018**

## **Report on submissions and further submissions on Topic 11: The Use of the Coastal Environment**

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# List of Abbreviations

MEP

Proposed Marlborough Environment Plan

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MSRMP	Operative Marlborough Sounds Resource Management Plan
WARMP	Operative Wairau Awatere Resource Management Plan
RMA	Resource Management Act 1991
NZCPS	New Zealand Coastal Policy Statement
NESETA	National Environmental Standard for Electricity Transmission Activities
MPI	Ministry for Primary Industries
CE	Coastal Environment
CMA	Coastal Marine Area
MMA	Mooring Management Areas
MHWS	Mean High Water Springs

## List of Submitters

PMNZ	Port Marlborough New Zealand
EDS	Environmental Defence Society
NZDF	New Zealand Defence Force
DOC	Department of Conservation
Marlborough Environment Centre	The Marlborough Environment Centre Limited
Te Runanga	Te Runanga o Toa Rangatira
PEPANZ	Petroleum Exploration and Production Association of NZ
Federated Farmers	Federated Farmers of New Zealand
Marine Farming Association	Marine Farming Association Incorporated
FNHTB	Friends of Nelson Haven and Tasman Bay Incorporated
KCSRA	Kenepuru and Central Sounds Residents Association Incorporated
QCSRA	Queen Charlotte Sounds Residents Association
Burkhart Fisheries	Burkhart Fisheries Limited and Lanfar Holdings (4) Limited
Marlborough Berth and Mooring	Marlborough Berth and Mooring Association Incorporated

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Association

PauaMAC

PauaMAC 7 Industry Association Incorporated

NMDHB

Nelson Marlborough District Health Board

KiwiRail

KiwiRail Holdings Limited

NZFSC

New Zealand Fire Service Commission

Yachting NZ

Yachting New Zealand Incorporated

Spark

Spark New Zealand Trading Limited

Chorus

Chorus New Zealand Limited

# Introduction

1. My name is Debbie Donaldson. I am a Resource Management Planner from Perception Planning Limited, based in Martinborough. My qualifications and experience are as follows:
2. I hold a Bachelor of Laws and a Bachelor of Science (Major Geography) from Victoria University of Wellington. I have over 10 years of experience in resource management roles within New Zealand, the United Kingdom and Australia.
3. I was not involved with the preparation of the MEP. I was contracted by the Marlborough District Council (Council) in 2017 (after the MEP submission period had closed) to evaluate the relief requested in submissions and to provide recommendations in the form of a Section 42A report.
4. I have read Council's Section 32 reports.

# Code of Conduct

5. I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note and that I agree to comply with it.
6. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.
7. I am authorised to give this evidence on the Council's behalf.

# Scope of Hearings Report

8. This report is prepared in accordance with section 42A of the Resource Management Act 1991 (RMA).
9. In this report, I assess and provide recommendations to the Hearing Panel on submissions made in relation to;
  - Volume 1- Issues, Objectives, Policies and Methods
    - Chapter 16 - Use of the Coastal Environment; and
    - Chapter 15 Resource Quality (Policies 15.1.19 and 15.1.20 only relating to discharges into the Coastal Marine Area)
  - Volume 2 - Rules
    - Chapter 13 - Port Zone;
    - Chapter 14 – Port Landing Zone;
    - Chapter 15 – Marina Zone;



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- Chapter 16 – Coastal Marine Zone;
  - Chapter 22- Lake Grassmere Salt Works Zone.
  - Volume 3 – Appendices
    - Appendix 12 – Determination of Wave Energy
  - Volume 4 - Maps
    - National Transportation Route Overlay
    - Zoning Maps as relevant
10. As submitters who indicate that they wish to be heard are entitled to speak to their submissions and present evidence at the hearing, the recommendations contained within this report are preliminary, relating only to the written submissions.
11. For the avoidance of doubt, it should be emphasised that any conclusions reached or recommendations made in this report are not binding on the Hearing Panel. It should not be assumed that the Hearing Panel will reach the same conclusions or decisions having considered all the evidence to be brought before them by the submitters.
12. This report provides an assessment of the submissions received in relation to the above chapters of the Plan. The report has identified the primary topic matters raised by submitters, and provides a response to submissions on each of these topic matters. The intention of this report is to provide the hearing panel with a clear assessment of submissions, and recommendations on the primary matters raised by submitters.
13. This report is intended to be read in conjunction with other Section42A reports, as follows:
- s42A - Report of submissions and further submissions Topic: 3 Natural and Physical Resources by Ms Liz White;
  - s42A Report of submissions and further submissions Topic 5 – Landscape by James Bentley Boffa Miskell;
  - s42A Hearings Report, Report for identifying ecological significance of biodiversity and mapping of ecologically significant marine sites. Peter Hamill and Dr Steve Ulrich;
  - s42A Hearing Report – Significant Wetlands, prepared by Rachel Anderson and Peter Hamill.
14. In order to undertake the assessment contained within this report, I have read and have made reference to information contained within the following reports;
- Davidson RJ; Duffy CAJ; Baxter A; DuFresne S; Courtney S; Hamill P. (September 2011). *Ecologically significant marine sites in Marlborough, New Zealand*. Coordinated

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by Davidson Environmental Limited for Marlborough District Council and Department of Conservation<sup>1</sup>.

- NIWA, *A biophysical model for the Marlborough Sounds, Part 1: Queen Charlotte and Tory Channel*. September 2014. (Report to the Environment Committee 16 October 2014 and Executive Summary of the Report).<sup>2</sup>
- Davidson Environmental Ltd Report, '*Reassessment of selected significant marine sites (2014-2015) and evaluation of protection requirements for significant sites with benthic values*' November 2015.<sup>3</sup>
- Cawthron, "Report No. 3098, Effects of Moorings on different types of Marine Habitat", 05th January 2018.
- Marlborough District Council, *PMSRMP Shipping Activity, Variation 3 S32 Report*. 1st February 2002<sup>4</sup>.

## Overview of Provisions

15. The provisions that manage the within the use of the Coastal Environment are contained within Volume 1- Chapter 13 of the MEP.
16. The rules that manage the use of the coastal environment are set out in each of the relevant zone based chapters within Volume 2. Relevant to this report are the Coastal Marine Zone, Port Zone, Port Landing Area Zone, Marina Zone and Lake Grasmere Salt Works Zone all of which are located within the coastal environment.
17. As outlined within Issue 13A of Volume 1 - Chapter 13, the provisions seek to provide for appropriate activities within the coastal environment while ensuring that the values of this environment are protected. Objective 13.1 and subsequent policies requires the avoidance of activities that would have adverse effects in areas identified within significant values. Objective 13.2 seeks to provide for activities within the coastal environment subject to those activities being undertaken in appropriate locations, within appropriate limits. Subsequent polices identify the values of the coastal environment and criteria to consider when assessing whether an activity undertaken within the coastal environment is appropriate.
18. The remainder of the Chapter 13 is different from other chapters of the MEP, as the Chapter then identifies particular activities that take place within the coastal environment, and provides a further management framework for each of these activities. When assessing the appropriateness of an activity within the coastal environment consideration must first be given

<sup>1</sup> <https://www.marlborough.govt.nz/environment/coastal/coastal-ecosystems/significant-marine-sites-inventory-report-2011>

<sup>2</sup> <https://www.marlborough.govt.nz/repository/libraries/id:1w1mps0ir17q9sgxanf9/hierarchy/Documents/Environment/Coastal/Hydrodynamic%20Models%20List/PublicsummaryQCShydrodynamic2014.pdf>

<sup>3</sup> [https://www.marlborough.govt.nz/repository/libraries/id:1w1mps0ir17q9sgxanf9/hierarchy/Documents/Environment/Coastal/Significant%20Marine%20Sites/26112015\\_Item\\_6\\_Expert\\_Panel\\_Assessment\\_of\\_2014-15\\_monitoring\\_site\\_categorisation\\_and\\_buffers.PDF](https://www.marlborough.govt.nz/repository/libraries/id:1w1mps0ir17q9sgxanf9/hierarchy/Documents/Environment/Coastal/Significant%20Marine%20Sites/26112015_Item_6_Expert_Panel_Assessment_of_2014-15_monitoring_site_categorisation_and_buffers.PDF)

<sup>4</sup> <https://www.marlborough.govt.nz/your-council/resource-management-policy-and-plans/marlborough-sounds-resource-management-plan/marlborough-sounds-plan-changes/variation-3-shipping-activity-in-the-marlborough-sounds>

to the objectives and policies unidentified under Issue 13A as these provisions apply to all activities within the coastal environment. Further assessment must then be undertaken against the relevant provisions of the remainder of Chapter 13 that relate to the activity that is proposed. For example, if a new Jetty is proposed, assessment will be firstly undertaken against the provisions contained under Issue 13A, with further assessment then undertaken against the provisions relating to all structures within the coastal environment under Objective 13.10 and Policies 13.10.1-13.10.10, and then further assessment against the policies that apply specifically to jetties contained within policies 13.10.11-13.10.18.

19. Any activities within the Coastal Environment must also be assessed for appropriateness against other provisions within the MEP that may be relevant; these include Chapter 3 – Marlborough’s Tangata Whenua Iwi, Chapter 4 – Use of Natural Physical Resources, Chapter 5 – Allocation of Public Resources, Chapter 6 – Natural Character, Chapter 7 -Landscape, Chapter 8 - Indigenous Biodiversity, Chapter 9 – Public Access and Open Space, Chapter 10 – Heritage Resources, Chapter 11 – Natural Hazards, Chapter - 15 Resource Quality.

## **Statutory Documents**

20. The following statutory documents are relevant to the provisions and/or submissions within the scope of this report. Although a summary of the way in which these provisions are relevant is provided below, the way in which they influence the assessment of the relief requested by submissions will be set out in actual assessment.

## **Resource Management Act 1991**

21. Before a plan change request can be incorporated into a District or Regional Plan it must fulfil a number of statutory requirements set down in the Resource Management Act, including:
  - Part II, comprising Section 5, *Purpose and Principles of the Act*; Section 6, *Matters of National Importance*; Section 7, *Other Matters*; and Section 8, *Treaty of Waitangi*;
  - Section 31, *Functions of Territorial Authorities*;
  - Section 32, *Duty to consider options, assess efficiency, effectiveness, benefits and costs*;
  - Section 65, *Matters to be considered by regional council (plans)*
  - Section 67, *Contents of regional plans; and*
  - Section 74, *Matters to be considered by territorial authorities*;
  - Section 75, *Contents of district plans*.
22. The purpose of this assessment is to determine whether the provisions relating to the use of the Coastal Environment as proposed should be confirmed, amended or deleted, after consideration of the alternative provisions sought in submissions.

23. I set out below the relevant tests from the RMA identified above.

## **Part II RMA**

24. Part 2 of the RMA includes the single sustainable management purpose of the Act at Section 5, and the principles in Sections 6 – 8 which must be appropriately considered when achieving this purpose.

### Section 5

25. The sustainable management purpose of the Act has two main 'arms':

- a) enabling the wellbeing, health and safety of people and communities; while (at the same time as;
- b) sustaining resources for the needs of future generations, safeguarding life-supporting capacity and avoiding remedying or mitigating adverse effects

### Section 6 - Matters of national importance

26. Section 6 of the RMA sets out matters of national importance which must be recognised and provided for when achieving sustainable management. Provision must be made for these matters when achieving the sustainable management purpose of the RMA, and decision makers must take steps to implement the protective elements of sustainable management contained within section 6.<sup>5</sup>

27. When making decisions on this plan change, the decision on these submissions must 'recognise and provide for' matters listed in section 6. For this plan change, relevant matters that must be 'recognised and provided' for include:

- a) Section 6(a): 'The preservation of the natural character of the coastal environment (including the coastal marine area) and protection from inappropriate subdivision, use and development'.
- b) Section 6(b): 'The protection of outstanding natural features and landscapes from inappropriate subdivision, use and development'
- c) Section 6(c): 'The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna'
- d) Section 6(d): The maintenance and enhancement of public access along the coastal marine area'
- e) Section 6(e): 'The relationship of Maori and their cultural and traditions with their ancestral lands, water sites, waahi tapu, and other taonga'

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<sup>5</sup> This was found to be the case in relation to natural character in *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited* [2014] NZSC 38[17 April 2014] Paragraphs[148 – 149] and I believe the same reasoning can be applied to the protection of the coastal environment.

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- f) Section 6(f) 'The protection of historic heritage from inappropriate subdivision, use and development'
- g) Section 6(g): 'The protection of customary rights'
- h) Section 6(h): 'The management of significant risks from natural hazards'

### Section 7 - Other matters

28. When making decisions on this plan change, particular regard must also be had to the matters listed in section 7. For this plan change, relevant matters that must be 'had particular regard to' include:

- a) Section 7(a): 'kaitiakitanga'
- b) Section 7(aa): 'the ethic of stewardship'
- c) Section 7(b): 'the efficient use and development of natural and physical resources'
- d) Section 7(c): 'The maintenance and enhancement of amenity values'
- e) Section 7(d): 'Intrinsic values of ecosystems'
- f) Section 7(j): 'The effects of climate change'

### Te Tiriti o Waitangi (Section 8)

29. Decision makers have a duty to take into account the principles of the Treaty of Waitangi.

### Restrictions on the use of the coastal marine area (Section 12)

30. Section 12 directs that no person may within the Coastal Marine Area (CMA), undertake the named activities without being expressly allowed by a National Environmental Standard (NES), or rule in a proposed or operative regional coastal plan. The activities listed within section 12(1) include reclamation or drainage of any foreshore or seabed; erecting, altering, removal of a structure in, on, over or under the foreshore and seabed; disturbance of the foreshore and seabed; deposition of any substance on in or under the foreshore and seabed. Section 12 also prohibits occupation of the CMA or removal of any material from the CMA without being expressly allowed by a NES, or rule in a proposed or operative regional coastal plan

## **Section 30 and 31 –RMA functions**

31. Section 30 of the RMA sets out the functions of Regional Councils, which includes the 'the establishment, implementation and review of objectives, policies and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the region'. Section 30(1)(c) outlines the functions of a regional council in relation to the control of land, and section 30(1)(d) outlines the functions of the Council in relation to the control of the coastal marine area.

32. Section 31 of the RMA sets out the functions of Territorial Authorities, which includes 'the establishment, implementation and review of objectives, policies and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district'.

## Section 32 – Appropriateness of provisions

33. Section 32 of the RMA sets out the duty consider alternatives and assess benefits and costs before a plan change is adopted in order to help determine whether the objective is the most appropriate way to achieve the purpose of the Act, and the efficiency and effectiveness of the policies and rules.
34. Effectiveness and efficiency may be defined as follows:
- Efficiency** – is the ratio of benefits to costs (the higher the ratio, the greater the efficiency), with all benefits and costs (non-monetary and monetary, intangible and tangible, long-term and short-term) included, and with no double counting of either benefits or costs.
- Effectiveness** – is a measure of how successful a policy or method would be in achieving the objective.
35. The hearing panel must also complete such an analysis for any changes they propose to the notified plan change as a result of submissions. Where I recommend changes to the notified provisions in this report I have endeavoured to provide an analysis in accordance with section 32 (and s32AA).
36. There is no single 'correct' approach to a Section 32 analysis. Every plan change requires a different approach to assessing the benefits, costs, appropriateness, efficiency and effectiveness, according to the particular environmental, economic and social context and circumstances. The key attribute must be an explicit process of weighing the different factors that are involved in determining the appropriateness of the plan change.
37. Determining the relative efficiencies of different methods usually depends on subjective assessments of the benefits and costs of each. Frequently, Section 32 will involve weighing up intangible or un-quantified benefits against monetary costs.

## Section 66 – Matters to be considered by a Regional Council

38. Section 66(1) requires that when a territorial authority prepares or changes a regional Plan it do so in accordance with its functions, Part 2 of the Act, in accordance with its duty to evaluate alternatives under s32 of the Act, and the New Zealand Coastal Policy Statement.
39. Section 66(2) of the RMA requires the Council to have regard to the Crown's interests in the coastal marine area, any management plans and strategies prepared under other Acts, and any regulations ensuing sustainability, conservation, management, or sustainability of fisheries resources. (s662(c)(iii))

## Section 74 – Matters to be considered by a Territorial Authority

40. Section 74(1) requires that when a territorial authority prepares or changes a Plan it do so in accordance with its functions, Part 2 of the Act and in accordance with its duty to evaluate alternatives under s32 of the Act.
41. Section 74(2) of the RMA requires the Council to have regard to any management plans and strategies prepared under other Acts. Section 74(2A) requires the Council to take into account any relevant iwi planning document.

## Section 75 – Achieving National and Regional Policies

42. Section 75(3) of the RMA requires that a District Plan must give effect to any national policy statement and regional policy statement.
43. The District Plan must give effect to the New Zealand Coastal Policy Statement (NZCPS).

## National Policy Statements

### New Zealand Coastal Policy Statement

44. The NZCPS sets out objectives and policies to achieve the purpose of the Act in relation to the coastal environment. The Objectives and policies of the NZCPS are, in summary to;
  - a) safeguard the integrity, from, functioning and reliance of the coastal environment and sustain its ecosystems (Objective 1);
  - b) Preserve natural character of the coastal environment and protect natural features and landscape values (Objective 2);
  - c) Take into account the principles of the Treaty of Waitangi and the role of thangata whenua in the management of the coastal environment (Objective 3);
  - d) Maintain and enhance the public open space qualities and recreation opportunities of the coastal environment (Objective 4);
  - e) Ensure the coastal hazards risks, including climate change are managed (Objective 5).
45. The policies set out the way in which these outcomes are to be achieved. In summary, these policies are:
  - a) The extent and characteristics of the coastal environment (NZCPS Policy 1);
  - b) The treaty of Waitangi, tangata whenua and Maori heritage (NZCPS Policy 2);
  - c) Adoption of the precautionary approach, when effects unknown or not understood but are potentially significant (NZCPS Policy 3);
  - d) Integrated management, including land or waters managed or held under other Acts (NZCPS Policy 4 and Policy 5);
  - e) Recognise, consider, encourage and promote activities in the coastal environment (NZCPS Policy 6);

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- f) Apply strategic planning in the preparation of regional policy statements and plans (NZCPS Policy 7);
- g) Recognition of the contribution of aquaculture (NZCPS Policy 8);
- h) Recognition of contribution of ports to a sustainable national transport system (NZCPS Policy 9);
- i) Identification of instances where reclamation and de-reclamation may be considered suitable (NZCPS Policy 10);
- j) The protection of indigenous biodiversity in the coastal environment, and provide for the control of harmful aquatic organisms (NZCPS Policy 11 and Policy 12);
- k) Preservation and restoration of the natural character of the coastal environment (NZCPS Policy 13 and Policy 14);
- l) Protection of natural features and landscapes and Historic Heritage (NZCPS Policy 15 and Policy 17);
- m) Recognise the need for public open space and walking access and control the use of vehicles within the coastal environment (NZCPS Policy 18, Policy 19 and Policy 20)
- n) Enhancement of the quality of water within the coastal environment control and reduction sedimentation and the discharge of contaminants (NZCPS Policy 20, Policy 22 and Policy 23).
- o) Identification of natural hazards areas of natural hazards and avoid subdivision, use and development in these areas where appropriate. Provide for the provision for natural defences of coastal hazards and strategies to protect existing development (NZCPS Policy 27).

### National Environmental Standards

- 46. The only National Environmental Standard that has been raised within the Submission on the Chapter 13 – Use of the Coastal Environment is the National Environmental Standard for Electricity Transmission Activities (NESETA).
- 47. The purpose of the NESETA is to:
  - a) minimise the cost to councils of implementing the National Policy Statement on Electricity Transmission (NPS)
  - b) ensure planning requirements are nationally consistent and provide adequately for maintenance and upgrading of transmission lines to achieve the intention of the NPS
  - c) minimise RMA processing costs and delays<sup>6</sup>.
- 48. The NES sets out a national framework of permissions and consent requirements for activities on existing electricity transmission lines. Activities include the operation, maintenance and

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<sup>6</sup> <http://www.mfe.govt.nz/more/energy/national-environmental-standards-electricity-transmission-activities/about-nes>



upgrading of existing lines. The NES sets out which transmission activities are permitted, subject to conditions to control the environmental effects<sup>7</sup>.

## **Regulations**

49. The Resource Management (Marine Pollution) Regulations 1998. The Regulation controls the discharge of substances, including human sewage from vessels into the coastal marine area.
50. The regulation is raised within submissions, and is relevant to the discussion and assessment in relation to the notified MEP Policy and Rules relating to discharge of human sewerage into the coastal marine area from ships and from land. These matters are discussed in detail in Matters 12 and 13 of this report.

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<sup>7</sup> <http://www.mfe.govt.nz/more/energy/national-environmental-standards-electricity-transmission-activities/about-nes>

## Analysis of submissions

51. There were approximately 1650 submissions received on provisions relevant to the Use of the Coastal Environment topic.
52. Given the high number, this report does not directly respond to every submission point received, however addresses the main topic matters raised across the submissions. An assessment however has been undertaken of each submission point, and recommendations on each submission point is available within Appendix 1 of this report.

## Site Visits

53. During August 2017, I visited the Ports of Picton and Shakespeare Bay, Waikawa Marina and the Port of Havelock. I also visited Lake Grassmere the surrounding area. I also spent a day travelling by boat within Queen Charlotte Sounds and Tory Channel.
54. I did plan to visit the sites of Elaine and Oyster Bay and Okiwi Bay on the 20-21<sup>st</sup> of February 2018, however my visit was required to be rescheduled with due to the onset of Cyclone Gita. I will however be visiting the sites prior to the hearing, and should these visits result in any changes to the contents of this report, I will provide this by way of a written update prior to the hearing.

## Key issues

55. I have set out my analysis of the submissions points by issue and then by respective components of the topic, under the following headings:

Matter 1: The values of the Coastal Environment

Matter 2: Cultural Values

Matter 3: Recreational Activities

Matter 4: Fishing and the Impact of Activities on Fisheries Resources

Matter 5: Anchoring and Moorings

Matter 6: Shipping

Matter 7: Structures

Matter 8: Foreshore and Seabed Disturbance

Matter 9: Zoning

Matter 10: Activities within the Coastal Marine Zone, Port Zone, Port Landing Area Zone and Marina Zone

Matter 11: Lake Grassmere Salt Woks

Matter 12: Clifford Bay Port Zone

## Section 42A Report: Chapter 13 The Use of the Coastal Environment

Matter 13: Discharge of Sewerage into the Coastal Marine Area from Land

Matter 14: Discharge of Sewerage into the Coastal Marine Area from ships

### **Pre Hearing Meetings**

56. There have been no pre-hearing meetings for this topic.

## Matter 1 – The values of the Coastal Environment

57. The management framework for the use of the coastal environment is specifically dealt within Volume 1 - Chapter 13 of the MEP.
58. As outlined within the introduction to Chapter 13, this chapter differs from other chapters of the MEP, as it includes within it management frameworks for specific activities.
59. All activities within the coastal environment are firstly subject to assessment against the objectives and policies under Issue 13A. The purpose of this section of Chapter 13 is to identify the values of the coastal environment, so that an assessment of any proposed activity can be made to determine the effect of that activity on the values of the coastal environment identified within this section.
60. This section of the report provides an assessment of the submissions received in response to the following provisions;
  - Issue 13A
  - Objective 13.1 and 13.2
  - Policies 13.1.1- 13.1.2
  - Policies 13.2.1 – 13.2.6
  - Methods 13.M.1 – 13.M.6
61. To reflect the structure of Chapter 13, my assessment of submissions will be broken down into the following topic matters;
  - Outstanding or Significant Values of the Coastal Environment
  - Other Values of the Coastal Environment
  - Amenity Values
62. Within each section I will summarise the submission received, provide an assessment of submissions, and provide recommendations to reflect my assessment.

### Outstanding or Significant Values

63. Objective 13.1 seeks to identify areas of the coastal environment where adverse effects from activities are to be avoided. Policies 13.1.1 and 13.1.2 identifies these areas where this shall occur, and identifies that these areas will be mapped within the MEP to provide certainty to plan users.

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64. The policies seek to identify areas of the coastal environment that the Council has an obligation to protect from adverse effects of development, use and subdivision to give effect to the provisions of the RMA and the NZCPS. These are areas of outstanding natural character, areas of outstanding features and natural landscapes, significant areas of marine biodiversity value or significant wetlands, and sites within significant historic heritage value.

### **Submissions**

65. 54 submissions were received in response to Issue 13A, Objective 13.1. and Policies 13.1.1 and 13.1.2.
66. In general, the submissions raised the following topic matters;
- The requirement to 'avoid' all adverse effects
  - Repetition of provisions within the MEP
  - Cultural and Historic Heritage
  - Wording and the scope of the policies
  - Areas included within the policies
  - The application to regionally significant infrastructure
  - Mapping
67. I will address the submissions and make an assessment of each of the topic matters below.

### The requirement to 'avoid' all adverse effects

#### **Submissions**

68. Submitters raised concern that the requirement of this suite of provisions, to avoid all adverse effects within these areas, is too onerous.
69. Totaranui Limited (233.025, 24) and Port Clifford (1041.020) submit that the objective and policies should include reference to 'remedy and mitigate' adverse effects, to bring the Policy 13.1.1 into line within the NZCPS.
70. Federated Farmers (425.212) submit that this objective should only focus on significant effects, as the Policy 13.1.1 as proposed requires avoidance of all adverse effects, and this may include minor, transient or temporary effects.
71. PMNZ (433.049) is concerned that the zoning of the Port, Port Landing and Marina Zones, is not consistent within the overlays that require a total avoidance of adverse effects, for instance of ecological values. They submit that this creates uncertainty to those undertaking activities within these zones.

#### **Assessment**

72. The intention of Objective 13.1 and Policies 13.1.1 and 13.1.2 is to outline to plan users and decision makers that there will be areas of the coastal environment, which are identified within the MEP, where the adverse effects of activities are required to be avoided. These particular

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environments are those that are required to be recognised and provided for within s6 of the Act. There is also direction from the NZCPS that in preparing regional policy statements (RPS), that the Council identify areas where particular activities and forms of subdivision, use and development are inappropriate (avoided)<sup>8</sup>.

73. Furthermore, given the clear direction from the higher order documents, in particular the NZCPS to avoid adverse effects of activities on areas of outstanding natural character (Policy 13(1)(a)), outstanding natural features or landscapes (Policy 15(a)), areas and habitats of indigenous biodiversity (Policy 11(a)) and sites of historic heritage (Policy 17), Policy 13.1.1 is reflective of this obligation. Given that the MEP must give effect to the NZCPS, it is considered that the requirement to avoid all adverse effects is the only option available to the Council
74. It is my view that the proposed objective and policies appropriately reflect the obligations within the Act and the NZCPS. Consequently 'the remedy or mitigation' of effects is not sufficient for protection of these environments, and there is requirement to avoid all adverse effects. I therefore recommend that the submissions of Totaranui Limited (233.025, 24), Port Clifford (1041.020) and Federated Farmers (425.212) be rejected.
75. I concur with the PMNZ, that there are areas of the Port Zone where the application of overlays of ecologically significant marine sites, and significant wetlands apply, and that the application of these polices is not consistent within the underlying Zoning of these areas. An assessment has been made in regard to the application of this framework to the Port Zoning of Shakespeare Bay. This is discussed in detail within paragraphs 902-936 of this report, and refer to this section of the report for my assessment and recommendation in response to the submission of PMNZ.
76. For the above reasons I consider that the objectives and polices as notified are appropriate in requiring the avoidance of all adverse effects within these areas identified within significance values. For these reasons, I recommend that the submissions outline above area rejected.

### Repetition of provisions within the PMEPP

#### ***Submissions***

77. Aquaculture New Zealand (401.120,127,128) and Marine Farming Association (426.125,132,133) seek the deletion of Policies 13.1.1 and 13.1.2, as they consider the matters provided for within these polices are addressed elsewhere in specific chapters of the MEP.

#### ***Assessment***

78. As outlined above, the matters outlined within 6(a) of the Act are matters of national importance that must be recognised and provided for. The NZCPS provides decision makers under the RMA further guidance as to how this can be achieved, particularly Polices 11, 13, 15 and 17. In giving effect to the NZCPS and the Act, it is the Council's role to determine what are inappropriate activities in order to protect these matters.

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<sup>8</sup> Policy 7 of the NZCPS

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79. I do acknowledge that there are other parts of the MEP that address the matters provided for within this Policy, for example Chapter 10 – Historic Heritage, Chapter 8 – Indigenous Biodiversity, Chapter 3 – Marlborough’s Tangta Whenua Iwi, Chapter 6 – Natural Character, Chapter 7 – Landscape. I do however consider that these provisions seek the same outcomes, and are not contrary to Objective 13.1 and Policies within 13.1.1 and 13.1.2, to enable the Council to achieve the purpose of the Act consistent within its functions under s30.
80. Marlborough’s coastal environment is acknowledged to be its ‘jewel in the crown’<sup>9</sup>. Higher order documents require the Council to identify areas of significant or outstanding values within the coastal environment where adverse effects are to be avoided. Consequently, I consider that is beneficial to both plan users and decision makers that Chapter 13 of the MEP specifically contains objectives and policies specific to identification of those areas of national importance within the coastal environment.
81. I therefore recommend that the submissions of Aquaculture New Zealand and Marine Farming Association are rejected.

### Historic and cultural heritage

#### **Submissions**

82. Te Runanga o Toa Rangatira (166.004) question whether the definition of ‘significant historic heritage value’ includes iwi heritage.
83. Federated Farmers (425.213) submit that it is unclear what is meant by the term ‘significant historic heritage’ term, and that historic heritage is already dealt in Chapter 10 of the MEP and Policy 17 of the NZCPS, so there is no need to repeat this within Policy 13.1.1. They also submit that Policy 13.1.1 is unnecessary as it is already managed within the MEP under Chapter 10.
84. Te Runanga o Kaikoura and Te Runanga o Ngai Tahu (1189.095) seek to include additional criteria within Policy 13.1.1 that recognises areas ‘essential to the relationship between Maori and their ancestral lands, water, sites, wahi tapu and wahi taonga’ to reflect 6(e) of the Act.

#### **Assessment**

85. Submitters have raised concern regarding the uncertainty over the term ‘significant historic heritage’ used within the Policy 13.1.1(d).
86. Policy 13.1.1(d) refers to significant historic heritage. Policy 10.1.4 of the MEP contained within Chapter 10 – Historic Heritage, requires the identification of historic resources, that meet the criteria for significance as listed within the policy. Heritage resources that meet the criteria for significance in Policy 10.1.4 are included within Appendix 13 – Register of Significant Heritage Resources of the MEP.

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<sup>9</sup> Explanation to Objective 4.3 in the MEP. It is noted that a phrase ‘Jewel in the Crown’ was submitted on in the context of the provisions contained within Chapter 1 and Chapter 4 of the MEP. Both the s42A reports of Liz White (Topic 3) and Paul Whyte (Topic 1-General, pg27) have reviewed submissions on this phrase, and recommended that it is retained as notified.

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87. The purpose of the inclusion of the word 'significant' within Policy 13.1.1 provides direction to plan users of Policy 10.4.1. Policy 10.1.4 establishes the criteria for the identification of significant heritage resources, those that meet the criteria are include within Appendix 13 of the MEP. I therefore recommend that wording as notified be retained.
88. In response to the submission of Federated Farmers I turn to the s32 report<sup>10</sup>, that states that Policy 13.1.1 is effective in identifying the values within the coastal environment, and this policy seeks to identify those values that are significant, to reflect the obligation under s6 of the RMA and direction within the NZCPS. If the MEP provides clear direction on the significant values and location within the Coastal Environment resource users will have a better appreciation of what is considered appropriate activities within particular locations. I agree with this assessment as such consider that Policy 13.1.1 is it appropriate for inclusion within Chapter 13.
89. Turing to the submission of Te Runanga o Kaikoura and Te Runanga o Ngai Tahu, Objective 3.1 -3.5 and Polices 3.1.1 - 3.17 outline the objective and polices of the MEP to respond to the resource management issues identified by Marlborough's tangata whenua iwi. Specifically Objective 3.3 provides for the 'Cultural and traditional relationship of Marlborough's tangata whenua iwi within their ancestral lands, water, air, coastal environment, waaai tapu and other sites and taonga are recognised and provided for'. Objective 3.5 provides for 'resource management decision making process that gives particular consideration to the cultural and spiritual values of Marlborough's tangata whenua iwi'.
90. These objectives are achieved by the implementation of the polices within Chapter 3, which seek, amongst other things to ensuring that within resource consent applications and plan changes early consultation is undertaken with tangata whenua iwi, and providing for matters that must be addressed within a consent application or plan change. In addition Policy 3.1.4 directs the preparation of iwi management plans to, amongst other things contain 'sites of cultural significance'.
91. I acknowledge that there will be a number of cultural sites, that may not be able to be mapped (in accordance within Policy 13.1.2 or 10.1.4) for various reasons, as outlined within the submission of Te Atiawa o Te Whaka a Aau (1186.64), but that may require the avoidance of adverse effects from activities, subdivision, use or development. Part 3 objectives and policies provide for and assessment of these activities, in relation to these sites, to be undertaken through the resource consent process.
92. In addition, Objective 13.2 and Policy 13.2.1 provides recognition that appropriate activities within the coastal environment are only those that can avoid, remedy or mitigate adverse effects on recognised values, and these values include (b) the relationship of Māori to their culture and traditions with their ancestral lands, waters, sites, wai tapu and other taonga.
93. Furthermore, the explanation to Policy 13.1.2 is clear that 'as more information becomes available new areas can be added through a notified plan change under the first schedule. This

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<sup>10</sup> s32 Chapter 13, Appropriate Activities, recreation, fishing, residential, shipping and Lake Grassmeere, Page 16.



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may include the introduction of a significant cultural heritage sites that are identified through the iwi management plan process.

94. I consider that Chapter 10 of the Plan is clear that that historic heritage extends to cultural significant sites, being those that have been identified as significant through Policy 10.1.4 and identified within Appendix 13 of the Plan.
95. I therefore consider Chapter 3 and Chapter 10 of the MEP and Policy 13.2.1 appropriately provide for the concerns raised by Te Runanga o Kaikoura and Te Runanga o Ngai Tahu in their submissions, and provides for and recognises the obligation under 6(e) of the Act, within respect to the coastal environment.
96. For these reasons, I recommend that the submissions of Te Runanga o Toa Rangatira and Federated Farmers are rejected and that the submissions of Te Runanga o Kaikoura and Te Runanga o Ngai Tahu are accepted in part.

### Wording and Scope of Policies

#### ***Submissions***

97. DOC (479.106) submit that an amendment is made to Policy 13.1.1 to ensure that the adverse effects that are to be avoided, should be adverse effects to the 'characteristics and values' identified within these areas. This is also submitted by Z Energy (1244.026), that seek that 'values' are recognised within the policy. Their concern is that as it stands the Policy requires the avoidance of 'all' adverse effects within mapped areas, however there may be activities that occur within these areas that may not have an effect on the 'values' identified.
98. An example was provided in the submission from Z Engery, that parts of Picton town fall within the southern boundary ONF 17 - Northern lands of Inner Queen Charlotte Sound. The explanation to these areas, however, does not identify any features within the business area of Picton that contribute to the values sought to be protected.
99. PMNZ (433.050) considers the requirement to 'avoid' adverse effects is extremely difficult and in some cases unwarranted to achieve the outcomes sought by the MEP.
100. Friends of Nelson Haven and Tasman Bay Association (716.144) submit that the reference to significant values should be removed within Policy 13.2.1 and as it is inconsistent within Policy 13.1.1 that refers to outstanding, rather than significant.

#### ***Assessment***

101. In response to the submissions of DoC and Z Energy, I consider that the proposed amendment sought by submitters to include reference to characteristic and values is reflective of the obligation within the NZCPS. The NZCPS provides an outline of how to identify and assess

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features, which includes identification and assessment of both characteristics and values<sup>11</sup>. I consider that the requested amendments will also assist decision makers and plan users in the identification of the nature of adverse effects are required to be avoided within these areas.

102. Following from this, I consider that the proposed changes outlined within the recommendations below, and assessment above will address PMNZ concerns with the inclusion of 'characteristics and values' into the Policy.
103. The characteristics and values of the areas identified within Policy 13.1.1 are identified within the appendices of the MEP<sup>12</sup>, and therefore provide guidance to plan users and decision makers on the nature of effects to be avoided.
104. I concur with the submission of Friends of Nelson Haven and Tasman Bay Association that the reference to significant could lead to confusion to plan users and as such recommend that the words 'outstanding or' are inserted as preface to significant within the Policy.

### Areas included within Policy

105. Twelve (12) submission were received that questioned the areas identified within Policy 13.1.1 where adverse effects of activities are required to be avoided.
106. Four submitters<sup>13</sup> submitted that Policy 13.1.1 should be amended to require explicit consideration of the impacts on fisheries resources, fishing habitat / and or fishing activity. This submission will not be addressed within this section of the report and is addressed in detail within Matter 3 at paragraphs 381-394 of this report.
107. Forest and Bird (715.215) and EDS (698.074) submit that the policy is not clear on how the chapter provides for significant terrestrial indigenous biodiversity within the coastal environment, to give effect to Policy 11(a) of the NZCPS. EDS submit that an additional clause "values and habitats or ecosystems in Policy 11(a) of the NZCPS' should be added to Policy 13.1.1.
108. EDS also submit that the policy is incomplete as it fails to identify other areas where adverse effects must be avoided in line with Chapter 8 of the MEP and fails to give effect to the NZCPS.
109. The Kenepuru and Central Sounds Residents Association (868.039) submit that there is no reason why the application of this policy should only apply to identified areas, as while the NZCPS requires identification, it does not go so far as to limit protection only to these area.

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<sup>11</sup> Policies 11, 13 and 15 of the NZCPS

<sup>12</sup> Areas of Outstanding Natural Character are identified within Appendix 2, Outstanding Natural Features and Outstanding Natural Landscapes are identified within Appendix 1. Significant marine Biodiversity or significant wetland are identified as significant marine site within the significant marine sites report<sup>12</sup>, and Significant Heritage Resources are identified within Appendix 13.

The significant Marine Sites Report is Davidson RJ; Duffy CAJ; Baxter A; DuFresne S; Courtney S; Hamill P. (September 2011). *Ecologically significant marine sites in Marlborough, New Zealand*. Coordinated by Davidson Environmental Limited for Marlborough District Council and Department of Conservation.

<sup>13</sup> Burkhart Fisheries Limited and Lanfar Holdings (4) Limited, Legacy Fishing Limited (906.007) \, PauaMAC 7 Industry Association (1038.006) and Fishing Industry Submitters (701.021)

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110. East Bay conservation Society (100.019) submits that subdivision should be allowed in areas of outstanding natural character to recognise the needs of remote communities.
111. Flaxbourne Settlers Association (712.051, 52) and Kevin Francis Loe (454.022) are concerned that Policy 13.1.1 may limit the ongoing use of Ecological Significant Marine Site 9.1 for continued fishing activities.
112. New Zealand Forest Products Holdings Limited (995.018) submits that significant part of the Coastal Environment Zone are used for commercial forestry are within the Outstanding Natural Features and Landscape overlay. The policy to avoid adverse visual effects is impossible given the clearance of commercial forestry.
113. Federated Farmers (425.215) propose a new objective to 'Provide that the use of production land for productive purposes will not be constrained by the identification of areas of production land as being in the coastal environment and/or having significant natural character, features/landscapes, or being of historic heritage.' This submission is opposed by Heritage New Zealand (FS 1048), Forest and Bird (FS 1287) and Te Atiawa o Te Waka-a-Maui Trust (FS(339))

### **Assessment**

114. In response the submission of Forest and Bird and EDS, Objective 8.1 of the MEP seeks that Marlborough's remaining indigenous biodiversity in terrestrial, freshwater and coastal environments is protected. It is achieved through the implementation of policies 8.1.1. – 8.3.8. I consider that the objectives and policies in Chapter 8 of the MEP provides a suitable management framework for the protection, maintenance and enhancement of indigenous terrestrial biodiversity, regardless of location either within or outside of the coastal environment
115. The EDS submission proposes the inclusion of 'areas identified as significant coastal biodiversity value under Policy 8.1.1'. Policy 8.1.1 identifies the criteria to be used to assess areas that have significant indigenous biodiversity value. The explanation to Policy 8.1.1 describes that these criteria is used when identifying areas within the coastal marine area with significant biodiversity value/wetlands, which are those areas identified in line with Policy 8.1.2 and mapped within the MEP as Ecologically Significant Marine sites. I consider the mapping of the significant areas, is sufficient link to the criteria for significant wetlands outlined within Policy 8.1.1 and therefore I do not consider that an explicit reference to Policy 8.1.1 within Policy 13.1.1 is necessary. I recommend the submission is rejected.
116. It is noted that a number of the identified ecologically significant marine sites are protected in light of the significance of one or a number of the criteria contained within Policy 11(a) of the NZCPS. I am therefore unable to justify the specific inclusion of reference to this Policy, as the Policies within the MEP as notified, already provide for sites to be identified that require protection under 11(a) of the NZCPS.
117. Unfortunately, neither the submissions of Forest and Bird or EDS have provided any examples of areas within Marlborough that they consider should be included, or have failed to be

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considered through the MEP in the identification of areas within (a)-(d) of the Policy, where 11(a) of the NZCPS would apply. I would be happy to undertake further assessment of this matter if examples of sites can be provided by the submitters.

118. In response to the submissions of the Kenepuru and Central Sounds Residents Association I consider that the s32 provides adequate justification. The s32 report<sup>14</sup> states that mapping areas identified in Policy 13.1.1. as having significant values provides greater level of certainty to decision makers and the community regarding where the adverse effects of activities are to be avoided. In addition mapping the significant area, Appendices 1 and 2 describe the specific values for landscape and natural character that contribute to making the mapped areas significant.
119. I consider it appropriate that the Council should only seek to avoid adverse effects of use and development in areas, where the significant values and characteristics of these areas are known and identified and subject to the Schedule 1 process. For this reason I recommend that this submission be rejected.
120. Turning to the submission of East Bay Conservation Society (100.019) it is noted that Policy 13.1.1 does not preclude subdivision from occurring within areas of outstanding natural character, it is only when the subdivision will result in adverse effect on the characteristics and values of these areas that avoidance is required. I believe that the policy adequately deals within this submission.
121. In response to the submission of Flaxbourne Settlers Association (712.051, 52) and Kevin Francis Loe (454.022), Site 9.1 is identified as Cape Campbell to Ward Beach<sup>15</sup>, where the biological values of the coast are poorly known. The Ecologically Significant Marine Sites (ESMS) in Marlborough Report identifies diverse rocky reef habitats subject to regular wave action as significant, and that this stretch of coast is one of three sites where the endemic fish species in the mottles botulin has been found in New Zealand<sup>16</sup>.
122. I am not clear from the submission as to the nature of fishing that occurs within these areas. Any commercial fishing is managed in accordance with the Fisheries Act, the purpose of which is to 'provide for the utilisation of fisheries resources while ensuring sustainability'. 'Ensuring sustainability under the Fisheries Act means (b) avoiding, remedying or mitigating any adverse effect of fishing on the aquatic environment.'<sup>17</sup> The MEP, and subsequent recommendations and amendments made within the s42 Report of Mr Andrew MacLennan for Topic 6 – Indigenous Biodiversity, precludes activities that disturb the seabed within any vulnerable ecologically significant areas<sup>18</sup>. ESMS 9.1 is identified as a Category B site, that is vulnerable to

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<sup>14</sup> s32 Chapter 13, Appropriate Activities, recreation, fishing, residential, shipping and Lake Grassmere, Page 18.

<sup>15</sup> Davidson RJ; Duffy CAJ; Baxter A; DuFresne S; Courtney S; Hamill P. (September 2011). *Ecologically significant marine sites in Marlborough, New Zealand*. Coordinated by Davidson Environmental Limited for Marlborough District Council and Department of Conservation. Pg 126

<sup>16</sup> Ibid pg127

<sup>17</sup> Fisheries Act 1996 Section 8

<sup>18</sup> Rule 16.7.5 and Objectives and Policy 8.3.7 within Chapter 8 – Indigenous Biodiversity. Amended as per recommendations contained within the s42A: Topic 6 Indigenous Biodiversity, Andrew MacLennan, Pg 75 and 76.  
s42A: Topic 6 Indigenous Biodiversity, Andrew MacLennan, Pg 79

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dredging and bottom trawling. Therefore the MEP, is amended in line with the s42A report, will prohibit fishing activities that involve dredging or bottom trawling. This is to ensure that significant ecological site is protected from activities that are known to have adverse effects on the ecological characteristics of the site. For these reasons I considered that the restrictions placed on fishing activities within ESMS 9.10 are justified in order to achieve the purpose of the Act and as such recommend that this submissions of Flaxbourne Settlers Association (712.051, 52) and Kevin Francis Loe (454.022) are rejected.

3.1 In response to the submission of New Zealand Forest Products Holdings Limited, I refer to the s42A report of James Bentley from Boffa Miskell. Mr Bentley states 'Where larger areas of modification are apparent (such as large areas of forestry, concentrations of aquaculture, houses, tracks etc. – and combinations of those) a decision had to be made if the area is sufficiently natural for ONL status, even though there may be other aspects of landscape (such as aesthetic or associational attributes) that may be evident. An area can be recognised more for one attribute than another, therefore it is imperative that a list of values is provided for each mapped or identified area<sup>19</sup>. I consider that the specific reference to adverse effects on the characteristics and values' of these areas as proposed my recommendations below would address this submission. I recommend that the submission point be accepted in part.

123. Turing to the submission of Federated Farmers, who request an objective that effectively allows for primary production land to be unconstrained by the matters identified within Policy 13.1.1. The matters that have been identified within the proposed objective, are matters, namely the natural character of the coastal environment, outstanding natural characters and landscapes, and sites of historic heritage, that are identified within s6(a),(b) and (f) of the Act as matters of national importance that are to be recognised and provided for. There is therefore a clear obligation and direction under the Act that these matters are provided for, and as such there can be no justification for an exception made, to allow primary production land to forgo consideration of, and providing for these matters when managing use and development. For this reason I recommend that the submission of Federated Farmers is rejected.

### Regionally Significant Infrastructure

#### **Submissions**

124. New Zealand Transport Agency (1002.054, 200, 201) seek that an exemption is added to Policy 13.1.1 for where the activity is necessary to enable the maintenance, enhancement, construction, operation and upgrade of regionally significant infrastructure. They consider the threshold of 'avoid' adverse effects has significant implications.

125. Transpower NZ (1198.026) opposes Policy 13.1.1 as it fails to balance matters of national importance in S6 with the significance of the National grid in the National Policy Statement of

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<sup>19</sup> s42A Report Topic 5 – Landscaping, James Bentley Boffa Miskell Ltd, pg20

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Electricity Transmission (NPSET). The submission requests the inclusion of the word 'inappropriate' before subdivision, use and development activities.

### Assessment

126. It is considered that the submission of Transpower, to include a reference to 'inappropriate' subdivision, use and development activities' is in line with the wording of 'section 6 of the Act. It is also consistent with the direction within the NZCPS in relation to natural character, landscape character, indigenous biodiversity and historic heritage.
127. It is the Council's role to determine what inappropriate use, subdivision and development is, and this can be undertaken through the resource consent process. As outlined within the Supreme Court decision *EDS v NZ King Salmon* [2014], the RMA and NZCPS refer to protecting areas from 'inappropriate' development. They do not refer to protecting them from any development, and this suggests that the framers contemplated that there might be 'appropriate development in such areas, and this raises the question of the standard against which 'inappropriateness' is to be assessed<sup>20</sup>. The Court went on to say that 'Inappropriateness' in s6 should be assessed by reference to what it is that is sought to be protected or preserved.
128. Given this context, I consider that it would be appropriate to amend the wording of Policy 13.1.1 to reflect the wording of both the RMA and NZCPS. It will be the decision of the Council to determine what activities, development, subdivision or use, are inappropriate within these areas given what is sought to be protected in each. As outlined within the Supreme Court decision 'A planning instrument which provides that any subdivision, use or development that adversely affects an area of outstanding natural attributes is inappropriate is consistent with this provision<sup>21</sup>. I recommend that the submission of Transpower is accepted.
129. I consider it would be inappropriate in the context of above to provide for within Policy 13.1.1 an exclusion to enable the maintenance, enhancement, construction, operation and upgrade of regionally significant infrastructure, as submitted by NZTA. In determining if such activities are appropriate would require assessment on a case by case bases through the resource consenting process, with an assessment against the effects of the proposal on what is sought to be protected. I recommend that the submissions of NZTA are rejected.

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<sup>20</sup> ENVIRONMENTAL DEFENCE SOCIETY INCORPORATED v THE NEW ZEALAND KING SALMON COMPANY LIMITED [2014] NZSC 38 [17 April 2014] Para 105

<sup>96</sup>  
<sup>21</sup> ENVIRONMENTAL DEFENCE SOCIETY INCORPORATED v THE NEW ZEALAND KING SALMON COMPANY LIMITED [2014] NZSC 38 [17 April 2014] Para 101

Mapping

**Submissions**

130. East Bays Conservation Society (100.020) seek to be involved in the identification of ecologically significant marine sites within Marlborough, and seeks that the Council ensures that local knowledge is considered during the research and identification of sites
131. Totaranui Limited (233.026) submit that the policy should be amended to include that identification of sites should be undertaken in consultation with iwi.

**Assessment**

132. As outlined within the s42A report of Dr Steve Ulrich<sup>22</sup>, Dr Ulrich advised that members of the public have been, and are, welcome to suggest to Council candidates as for significant marine sites. These are recorded and surveys in the annual monitoring program as priorities and as resources allow. The data is assessed for significance by marine site expert panel, and, if significant, adopted as a site in the MEP via the plan change.
133. In repose to the submission by Totaranui Limited, I refer to the s42A report of Dr Ulrich that states that there will be overlap between the ecological significance and cultural significance of some sites. Given the process for identifying ecologically sensitive sites, he sees difficulties if ecologists on the Expert Panel complete their assessment by have no mandate to identify the importance of a site for iwi<sup>23</sup>.
134. As outlined within paragraph 132, as with members of the public, there would be an opportunity for iwi to recommended sites for inclusion as sites of ecological significance, or cultural significance. Assessment would then be made, if considered appropriate, and could be included within the MEP through the plan change process.

**Recommendation**

135. In light of the assessments and recommendation outlined within the section above, I recommend that Policy 13.1.1 and Policy 13.1.2 are amended as follows;

**Policy 13.1.1 – Avoid adverse effects from inappropriate<sup>24</sup> subdivision, use and development activities on the characteristics and values of<sup>25</sup> areas identified as having:**

- (a) outstanding natural character;**
- (b) outstanding natural features and/or outstanding natural landscapes;**
- (c) significant marine biodiversity value and/or are a significant wetland; or**
- (d) significant historic heritage value.**

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<sup>22</sup> S42A Hearings Report, Report for identifying ecological significance of biodiversity and mapping of ecologically significant marine sites. Peter Hamill and Dr Steve Ulrich para 61

<sup>23</sup> Ibid, Para 60

<sup>24</sup> Transpower New Zealand Limited 1198.26

<sup>25</sup> DOC 479.106, Z Energy 1124.026

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Policy 13.1.1 identifies four [outstanding or](#)<sup>26</sup> significant matters upon which the adverse effects of activities are to be avoided. These matters are given particular direction through the principles of the RMA (Sections 6(a), (b), (c) and (f)) and through direction provided by Policies 11, 13, 15 and 17 of the NZCPS. However, it is important to acknowledge that implementing the policy does not mean that all activities are prohibited from occurring in the areas with the identified values; it simply makes clear that any adverse effects of activities must be avoided in those areas, rather than being mitigated or remedied.

**Policy 13.1.2 – Areas identified in Policy 13.1.1 as having [outstanding or](#)<sup>27</sup> significant values will be mapped to provide certainty for resource users, Marlborough’s tangata whenua iwi, the wider community and decision makers.**

Mapping areas identified in Policy 13.1.1 as having [outstanding or](#)<sup>28</sup> significant values will provide decision makers and the community with a greater level of certainty regarding where the adverse effects of subdivision, use and development activities are to be avoided. Mapping also assists applicants in considering either different locations for their activity or ways in which adverse effects of their activity can be avoided. In addition to mapping the significant areas, Appendices 1 and 2 describe the specific values for landscape and natural character (respectively) that contribute to making the mapped areas significant.

While the Council has undertaken various assessments and studies to inform which areas have been mapped in Policy 13.1.1, not all areas within the coastal environment have been assessed. This is because for certain values, such as significant marine biodiversity, the only information available is on known sites recorded through processes such as resource consent applications. Given the resources required for more extensive assessment, it is not possible for all areas of the coastal marine area to be surveyed. As more information becomes available new areas can be added through a notified plan change under the First Schedule process of the RMA.

## Other Values of the Coastal Environment

### Objective 13.2 and Policy 13.2.1

136. Objective 13.2 and Policies 13.2.1 – 13.2.6 provide for activities to occur within the coastal environment, where these activities are undertaken in appropriate locations, forms and within appropriate limits.

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<sup>26</sup> Friends of Nelson Haven and Tasman Bay Association 716.144

<sup>27</sup> Friends of Nelson Haven and Tasman Bay Association 716.144

<sup>28</sup> Friends of Nelson Haven and Tasman Bay Association 716.144



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137. Policy 13.2.1 outlines that appropriate locations, forms and limits, are those that recognise and provide for, and otherwise avoid, remedy of mitigate adverse effects on identified values of the coastal environment. These values are identified within Policy 13.2.1.

### **Submissions**

138. Thirty-two (32) submissions were received on to Objective 13.2 and Policy 13.2.1
139. Of the eleven (11) submissions received in relation to Objective 13.2, eight (8) supported the objective as notified. Three (3) other submissions seek minor amendments to the objective.
140. Of the twenty-one (21) submissions were received in relation to Policy 13.2.1, five (5) supported the policy as notified. All other submissions seek amendments to the policy.
141. Submissions on this Policy seek clarification or amendment to the particular values listed within the Policy.
142. Four submitters<sup>29</sup> sought that Policy 13.2.1 be amended to require explicit consideration of the impacts on fisheries resources, fishing habitat / and or fishing activity. This submission will not be addressed within this section of the report and is addressed in detail within Matter 3 at paragraphs 381 -394 of this report.
143. The remainder of submissions in general addressed the following topic matters;
- Objective 13.2<sup>30</sup>
  - Value (f) – Water Quality<sup>31</sup>
  - Value (g) - Individual and community expectations about coastal amenity values<sup>32</sup>
  - Primary Production activities<sup>33</sup>

### **Assessment**

#### Objective 13.2

### **Submissions**

144. Forest and Bird (715.217) seek amendment to the explanation of Objective 13.2 to refer to activities to avoid, remedy and mitigate adverse effects. And to refer to Policy 11(b) of the NZCPS as it is not clear if this Policy gives effect to this Policy.
145. Te Runanga o Kaikoura and Te Runanga o Ngai Tahu (1189.097,98) submit that the framework of objectives and policies in this chapter creates a hierarchy of s6 matters within the coastal environment, and that there needs to be reconsideration of the relationship between the

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<sup>29</sup> Burkhart Fisheries Limited and Lanfar Holdings (4) Limited (610.005), Legacy Fishing Limited (906.008) , PauaMAC 7 Industry Association (1038.007) and Fishing Industry Submitters (701.022)

<sup>30</sup> Forest and Bird (715.217), Te Runanga o Kaikoura and Te Runanga o Ngai Tahu (1189.097,98)

<sup>31</sup> Forest and Bird (715.218)

<sup>32</sup> Marine Farming Association (426.134) and Aquaculture NZ(401.129), Port Marlborough (433.051) and further submission by GBC Winstone (FS 250), Eric Jorgensen (404.016)

<sup>33</sup> Federated Farmers(425.218)

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two sets of objective and policies. This submission point is also raised in relation to Policy 13.2.1 (1189.098).

### **Assessment**

146. In response to the submission of Forest and Bird, the role of Objective 13.2 is to outline the outcome that the Council is wanting to achieve, in this case providing for activities to occur within the coastal environment in appropriate areas and subject to limits. The Objective seeks to recognise the enabling direction within Policy 6 of the NZCPS to provide for activities, subject to the other provisions in the RMA and NZCPS, that include but are not limited to Policy 11(b). This provides direction to the Council in identifying appropriate locations, forms and limits i.e. Policy 11(b) outlines the areas where activities must avoid, remedy or mitigate adverse effects in relation to indigenous biological biodiversity. Policies 13 and 15 outline that activities must avoid remedy or mitigate adverse effects on natural character, natural features and landscapes, and how these should be identified. Given that Policy 11(b) is one of a number of Policies within the NZCPS that performs an effects management role, I do not consider it necessary to refer all related policies within the explanation to this objective and policy.
147. I do not consider the wording of the amendment proposed by Forest and Bird is accurate for this objective. I consider that the objective already provides for the outcome the Forest and Bird seek, as appropriate location, form and limits are required to be considered through an assessment of effects and by ensuring that adverse effects are avoided, remedied or mitigated as directed by the principles of the RMA. The explanation to this policy already outlines this. For these reasons, I recommend that the submission of Forest and Bird is rejected.
148. Turning to the submission of Te Runanga o Kaikoura and Te Runanga o Ngai Tahu, while I acknowledge the concerns of the submitter, I do not agree that a hierarchy is created by the Plan provisions. The first set of objectives and policies being Objective 13.1 and Policies 13.1.1-13.1.2 recognise those locations where adverse effects must be avoided on the identified values of areas that have been clearly identified through extensive assessment and mapped. These are matters of national importance that must be recognised and provided for under s6 of the Act.
149. The second set, being Objective 13.2 and Policy 13.2.1 onwards, identifies that activities may be undertaken in other areas within the coastal environment (which may not be clearly identified and mapped), but that any activity must provide for the values outlined within the policies. This includes value (b) the relationship of Maori and their culture....' and that effects on this value must be avoided, remedied or mitigated.
150. If effects are required to be avoided (i.e. to recognise and provide for the relationship of iwi with their lands and waters) to provide for the values identified, Objective 13.2 and Policy 13.2.1 ensures that this will occur. I do not consider that the values outlined within the provision set under Objective 13.2 are undermined by those in Objective 13.1.

**Recommendations**

151. For these above reasons, I recommend that the submissions are rejected and that Objective 13.2 is retained as notified.

Policy 13.2.1 (f) – Water Quality

**Submissions**

152. Forest and Bird (715.218) seek clarification of clause (f), and the definition of coastal waters ( i.e. whether it includes estuaries and tidal parts of rivers) and consider that it would be unclear if a proposal is deemed appropriate under this policy because the words ‘generally experienced’ do not provide guidance on what the values/characteristics of water quality are.

**Assessment**

153. The MEP defines coastal waters as the same meaning as within s2 of the Act. S2 of the RMA states; “*Coastal Waters means seawater within the outer limits of the territorial sea and includes—*

(a) seawater with a substantial fresh water component; and

(b) seawater in estuaries, fiords, inlets, harbours, or embayments

154. The intention of Policy 13.2.1 is to identify values of the coastal environment within Marlborough. It is envisaged that some values may be applicable in some locations and others may not. The Policy also envisages that the extent of any value may vary from location to location. I believe that the writers of the MEP intended to recognise within value (f) that the water quality of Marlborough’s coastal water is generally high, but may not be experienced everywhere, and there may be areas of Marlborough where the quality of the coastal water is not as highly valued as in other areas. For example areas proposed for marine farming, rely on a high quality of water, and therefore the water quality in this area is highly valued. In other locations, the activities taking place within these areas may not rely on such a high water quality and as such the ‘value’ of high quality water in this location will be less than areas, for example where a marine farm is located.

**Recommendation**

155. For these reasons I do not consider that it is necessary to amend clause (f) to be more specific. I recommend that the submission on forest and bird is accepted in part.

Policy 13.2.1(g) - Individual and community expectations about coastal amenity values

**Submissions**

156. Clause (g) of Policy 13.2.1 identifies ‘those attributes that collectively contribute to individual and community expectations about coastal amenity values’ as an identified value of the coastal environment.

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157. Five submissions were received relating to the inclusion of value (g) within the Policy. The Marine Farmers Association (426.134) and Aquaculture NZ(401.129) seek to remove the reference of 'individual expectations from (g), and refer to 'values' rather than characteristics and qualities within (a).
158. PMNZ (433.051) and further submission by GBC Winstone (FS 250) raised concerned that clause (g) is intangible and would be difficult to determine whether or not an activity achieves this policy. Eric Jorgensen (404.016) raises concern that there is an absence of description of the attributes within (g) and requests amendment to the wording of (g) to refer to "community perceptions of, or expectations about".

### **Assessment**

159. The attributes of coastal amenity value are identified within Policy 13.2.4. It is however important to acknowledge that within the explanation of this Policy that not all attributes will be identified in all locations, and will be dependent on the location within the coastal environment.
160. Submitters are concerned that the inclusion of this value is intangible and would be difficult to determine if this value is achieved. As outlined within the explanation to the policy these values are to be considered for all applications for resource consent or plan change. It is likely that as part of any resource consent process or plan change process, that views from the community will be received during notification and public submissions. This process, along with assessment of the attribute of coastal amenity values contained within Policy 13.2.4 will assist to identify the specific nature of such values, with regard to the particular location of the resource consent application or plan change in the coastal environment.
161. I consider it appropriate that both individuals and community expectations are considered, as both may be particularly relevant depending on the location and nature of activity proposed. In addition, given that this value relates to expectations of coastal amenity values, the scope of the value is limited, and it is likely that individual and community expectations will be similar

### Primary production values

#### **Submission and Assessment**

162. Federated Farmers (425.218) submit that an additional value should be added to the policy to specify 'legitimate land uses including primary production', particularly in light of identified value (d) the importance of public access, that can sometimes be at odds with private land use.
163. I do not consider it is necessary to add a value within Policy 13.2.1 regarding legitimate land uses, including primary production. Land use and primary production are an activity that occur within the coastal environment. A 'value' is something (such as a principle or quality) intrinsically valuable or desirable<sup>34</sup>. Land uses and primary production within the coastal environment, are able to occur while allowing the values listed within Policy 13.2.1 to be recognised and provided for. I do not therefore consider that it is appropriate in the context of

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<sup>34</sup> Oxford dictionary 'value'

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the Policy to include primary production or land use as a value, and as such recommend that the submission of Federated Farmers is rejected.

### Policy 13.2.2

#### **Submissions**

164. Twenty one (21) submissions were received in relation to Policy 13.2.2 of which two (2) opposed the policy as notified. A number of submissions were received requesting amendments to the Policy.
165. Michael and Kirsten Gerard (424.047), Clova Bay Residents Association (152.002) and Kenepuru and Central Sounds Residents Association (868.041) oppose clause (c) of the policy on the basis that it appears to give an established activity within the coastal environment a form of 'first here' protections against other proposed activities, and fails to recognise the coastal marine area as within the public domain.
166. The New Zealand Institute of Surveyors (996.005) oppose clause (f) as they consider that the wording of this clause discourages subdivision altogether which does not facilitate responsible development. They consider that the wording 'sprawling or sporadic patters of subdivision' should be removed.
167. Chorus NZ (464.023) and Spark (1158.021) submit that clause (g) should be amended to remove the wording 'network of regionally significant' as they consider that telecommunication and radios communication may be located within the coastal environment and so the policy should be amended to provide for this to occur, and to provide consistency with other submission points raised regarding regionally significant infrastructure<sup>35</sup>.
168. Kevin Wilson (210.013) submits that an additional clause could be provide to include (j) the benefits of the activities.
169. Port Clifford (1041.024) submit that clause (a) of the policy is amended to provide reference to 'on a national, regional and local level, at the end of the clause.
170. Te Atiawa o Te Waka-a Maui (1186.065) submit that the consideration points do not include protection of cultural values, beliefs, structures, resources and locations.

#### **Assessment**

171. Turing to the submissions of Michael and Kirsten Gerard, Clova Bay Residents Association and Kenepuru and Central Sounds Residents Association. I acknowledge the concern of these submitters, however consider that this clause has been included within Policy 13.2.2 to assist in giving effect to Policy 6(2)(c) of the NZCPS, which requires that the MEP recognise activities within coastal marine area that have a functional need to be located there, and that these activities need to be provided for in appropriate locations. The intention of clause (c) as I interpret it, is to ensure that activities that have a functional need to be within the coastal

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<sup>35</sup> Refer to S42A: Topic 3 – Natural and Physical Resources, Liz White, 16<sup>th</sup> October 2017, Pg36

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environment, and have been deemed appropriate (given that they are existing), are not compromised by other activities.

172. While there may be concern that this appears to create a first in first served approach, it must be considered within the management framework proposed by the MEP. That being, that any occupation of the coastal marine area would require resource consent, and would only be approved where it can be demonstrated that the activity is to be required to be located within the coastal marine area, is appropriate within the specific location, and is provided for, for only a limited period (in line within Policy 13.2.3). For these reasons I recommend the submissions are rejected.
173. The submissions for Spark and Chorus are acknowledged, and I envisage that there may be circumstances that require the location of telecommunication and radio communications facilities within the coastal environment. The wording of this policy does not exclude such an activity from occurring, but merely recognises, or gives weight to activities that would contribute to the network of regionally significant infrastructure within Policy 4.1.1. It is also noted that the amendments proposed to Policy 4.2.1, as recommend within the s42A report of Liz White<sup>36</sup>, provide for as regionally significant infrastructure, *a network, for the purpose of telecommunications...* in line within the submissions points (464.4 from Chorus and 1158.2 from Spark). Furthermore, I do not consider that Policy 13.2.2 would hinder or make more onerous the ability for these submitters to introduce telecommunications or radio communications into the coastal environment. Activities as outlined by Chorus, could instead be recognised within (a) as activities that contribute to the social and economic wellbeing of people (i.e. keeping people in touch, safe and accessible). I therefore recommend that the submissions of Chorus and Spark are rejected.
174. I acknowledge the submission by New Zealand Institute of Surveyors, however I do not consider that the Policy discourages subdivision altogether, as the Policy clearly provides for subdivision (along with other activities) but gives guidance on the appropriate form of the activity. I do not consider that it is unreasonable for the Council to wish to consider the effects on the coastal environment of sprawling or sporadic subdivision and consider that this approach aligns with the direction of Policy 6(c) of the NZCPS. For this reason, I recommend that this submission is rejected.
175. I do not consider that the amendments proposed by Kevin Wilson are necessary given that the other matters within Policy, namely (a), (e), (g) would provide scope for benefits of any proposal to be considered, in particular in relation to the social and economic wellbeing of people and communities and any restoration values or provision of services. In addition, the positive effects of a proposal can be identified within the Assessment of Environmental Effects (AEE) or resource consent application.

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<sup>36</sup> S42A: Topic 3 – Natural and Physical Resources, Liz White, 16<sup>th</sup> October 2017, Pg36

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176. In addition, I also do not consider that the amendments proposed by Port Clifford are necessary as the Policy provides sufficient scope for all the submitters considerations, without needing to be specified.
177. In response to the submission by Te Atiawa o Te Waka-a Maui (1186.065), the Policy references that the matters within Policy 13.2.2 must be considered in addition to the values within 13.2.1, which specifically includes the value of '(b) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga'. I consider that the application of Policy 13.3.1 would give due consideration to the values that Te Atiawa seek inclusion of within Policy 13.2.2. I would however be open to the inclusion of other matters of cultural importance if considered necessary by the submitter if these were to be presented at the Council hearing.

### **Recommendation**

178. For the reasons outlined above I recommend that the Policy 13.2.2 remain as notified.

### Policy 13.2.3

179. Policy 13.2.3 outlines that the timeframes for which coastal permits will be granted. This will enable the periodic reassessment of activities to determine whether the activity is affecting the values of the coastal environment, encourages efficient use, and gives consideration of the dynamic coastal environment.

### **Submissions**

180. Fifteen (15) submissions were received in relation to Policy 13.2.3.
181. The majority of submissions received supported of the provisions as notified. It is noted, submissions in opposition or partial opposition to the Policy are those that are currently occupiers of the coastal environment. These submitters consider that the policy would result in uncertainty for large investments, and would result in high re-consenting costs.
182. Aquaculture NZ (401.131) and Marine Farmers Association (426.136) submit that 20 years is a statutory minimum for a coastal permit under the RMA and considers that if these provisions are to apply to aquaculture, the MEP should allow for a 35 year term, particularly given significant re-consenting costs. They propose that the Policy 13.2.3 is amended to states that 'will generally be granted (as opposed to limited) for a minimum of 20 years'.
183. NZTA (1002.056) submit that the policy should be amended to provide an exemption to 'where a permit enables the development, operation, maintenance or upgrade of regionally significant infrastructure'. This position is supported in a further submission by Port Marlborough (FS 961).
184. Port Clifford also (1041.025) submit that a duration of 20 years does not provide sufficient certainty for consent holders to undertake large-scale long term investments, however it is noted in a further submission (FS 834) that they support the submission by NZTA as outlined

above, provided that new ports are included within the definition of regionally significant infrastructure.

***Assessment***

185. I appreciate the position of the submitters. These are organisations and businesses that are making significant investment into activities and development within the coastal environment. It must however be noted that it is the resource, being the coastal marine area that is supporting the business interests of these occupiers. I therefore consider it is within their best interests as investors in this environment to ensure that the resource is maintained to a quality that can support their operations. In addition, the Council has a statutory obligation within its functions to manage this sensitive environment to achieve the purpose of the Act.
186. The s32 report<sup>37</sup> and explanatory text to the policy clearly outline the reasons that the Council has taken the approach to consenting timeframes outlined within Policy 13.2.3. The reasons are primarily focused on the need to periodically assess the impacts of activities on this environment, given that the resource is finite, sensitive and dynamic, and is subject to demand for use from an increasing number of activities and users. I agree with these reasons.
187. It is noted that Policy 13.2.3 by no means precludes the granting of consents for periods of more than 20 years, however it gives a clear direction (by stating will generally be limited to) that this would only occur in limited circumstances. I do not consider give the reasons, outlined within paragraph 182, that an exemption need to apply to regionally significant infrastructure. It is up to the Council on a case by case basis to assess if there is sufficient reason to justify a longer consent period.
188. In response to submissions in relation to aquaculture consents, the provisions of the MEP in relation to aquaculture are still being developed and it is impossible to anticipate the contents of this section of the MEP. Once the Aquaculture provisions have been notified, there will be an opportunity for submitters to make submissions on the implications of these provisions. The Schedule 1 process will allow any amendment to be made to the remainder of the MEP to reflect the Aquaculture provisions if required.

***Recommendation***

189. For the reasons outlined above I recommend that the Policy 13.2.3 remain as notified.

**Amenity Values**

Policies 13.2.3 – 13.2.6

190. Policies 13.2.3 – 13.2.5 relate to amenity values within the coastal environment. Policy 13.2.4 outlines the attributes of coastal amenity values, with Policy 13.4.5 outlining how amenity

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<sup>37</sup> Section 32: Chapter 13 – Appropriate activities, recreation, fishing, residential, shipping, Lake Grassmere. Pg21



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values of the coastal environment can be maintained and enhanced. Policy 13.2.6 outlines how to determine the extent to which coastal amenity values will be affected by an activity.

### Policy 13.2.4

#### **Submissions**

191. Twelve (12) submissions were received in relation to Policy 13.2.4. Five (5) submissions were received in support of the policy as notified.
192. Te Atiawa o Te Waka-a Maui (1186.066) submit that policy 13.2.4 provides no mention of cultural values and this should be considered as an attribute of coastal amenity value.
193. Aquaculture NZ (401.132) and Marine Farmers Association (426.137) submit that there is no reference to the definition of amenity in the RMA.
194. Federated Famers (425.220) is concerned about the reference in Policy 13.2.4 to 'peace and tranquillity' as the coastal environment is often a working landscape and therefore sights and sounds anticipated within a working landscape would be anticipated. They submit to remove the wording 'peace and tranquillity and replace with 'existing land use'.

#### **Assessment**

195. In response to the submission by Te Atiawa I consider that the policy as notified recognises 'those natural and physical' attributes of the coastal environment, and therefore in doing so, to an extent (along with recognition of cultural values in themselves as required within Policy 13.2.1) provides for those things that allow for an appreciation of cultural values attributes within areas. I therefore recommend that the submission on Te Atiawa is rejected.
196. Turning to the submission of Aquaculture NZ and Marine Farmers Association, the definition of 'amenity values' from the RMA is included within the explanation of this Policy. I refer to the definition of 'amenity values' within the RMA, defined as '*those natural or physical qualities and characteristics of an area that contribute to peoples appreciation of its pleasantness, aesthetic coherence and cultural and recreational attributes*'. The intention of this Policy 13.2.4 is to outline the 'natural and physical qualities and characteristics' of the coastal environment that contribute to coastal amenity value. In light of the above I dismiss the submission to re-word this policy.
197. In response to Federated Farmers, the explanation to Policy 13.2.4 clearly identifies that not all attributes identified within the policy will be relevant in all locations, and that amenity value may be different for different locations in the coastal environment. For this reason, I consider that there is no reason to delete the words tranquility and peacefulness, as it is acknowledged within the policy that this may not apply to all areas. I do consider however that this is an attribute of some areas of the Sounds that I am sure we can all relate to. Furthermore, I do not consider there is a need to make wording of the policy stronger (in line within the submission of Eric Jorgensen 404.018), as the term 'may' indicates that there is not a blanket application of all attributes across all areas, as intended by the policy.

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198. Policy 13.2.4 as notified, provides for 'structures and activities' as part of the attributes to coastal amenity, and it is considered appropriate that 'existing land uses' could be considered as part of this classification. The Policy allows for consideration of exiting use, and therefore I do not consider that the policy requires amendment as submitted by Federated Farmers.

### **Recommendation**

199. I recommend that the Policy 13.2.4 remain as notified.

### Policy 13.2.5

#### **Submissions**

200. Nineteen submission were received in relation to Policy 13.2.5. Four submissions were received in support of Policy 13.2.5 as notified. The majority of submitters seek minor changes to the wording to one or more of the clauses contained within the policy.
201. Kenepuru and Central Sounds Residents Association (868.044) and Clova Bay Residents Association 152.030) submits that there is no guidance within Policy 13.2.5 on the management of the adverse visual amenity effects from structures in the coastal environment.
202. The submissions of Te Runanga o Ngati Kuia (501.052) and EDS (698.077) seek to remove the wording 'where necessary' clause (b).
203. Federated Farmers (425.221) request that Policy 13.2.5 is deleted on the basis that this policy elevates amenity values to a similar level of protection as outstanding natural landscapes, and will result in unreasonable expectations on landowners. They submit that the attributes outlined within this policy will often not be conducive to working farming operations needs (i.e. cluster of buildings appropriate design, form, positioning to compliment visual quality of the location.)
204. Marine Famers Association (426.138) and Aquaculture NZ (401.133) consider that many of these matters are addresses within other chapters of the Plan and the remaining aspects of the Policy 13.2.5 can be dealt within the rules of the MPE, and as such submit that the Policy should be deleted.
205. Port Marlborough (433.053) submit that clauses (f) and (j) will result in many activities that require occupation of the coastal marine area to be avoided, or will result in overly restrictive or limit legitimate activities (those that result in high traffic generation), and that this is not in line with activities within the Port, Port Landing Area, and Marina Zones. Z Energy (1244.033) is also concerned within the inclusion of clause (j) as it does not provide recognition of high traffic generating activities within the coastal environment. The submitter is concerned that there is a lack of definition or guidance of what a 'high traffic generating facility' is and what activities this is likely to include (ie service stations, retail premises). Z Energy is unsure what with any specificity clause (j) is seeking to control.
206. EBCS (100.021) is opposed to clause (i) of Policy 13.2.5 on the basis that they consider that the dominant human impact on the landscape are where houses and structures and clumped

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together in unnatural amounts and that this would be avoided. This is supported by the submission of Eric Jorgensen (404.019)

### **Assessment**

207. The intention of Policy 13.2.5 is to identify how amenity values can be maintained and enhanced within the coastal environment. Consideration of these values will be used in the assessment of resource consents and establishing permitted activity rules and standards<sup>38</sup>.
208. The values listed within the policy are not intended to, and will not apply across the board to all locations, as outlined within the explanation to the Policy 13.2.5 that states that it is 'important to maintain attributes that contribute to amenity values in any particular area'. The policy serves to give direction as to matters to consider in an assessment of the effect on amenity values of the coastal environment from an activity, and is the activity maintaining or enhancing amenity values.
209. It is important that it is acknowledged that this policy will be applied on a case by case basis, and as such not all clauses contained within Policy 13.2.5 will strictly apply to all locations. This policy serves as a trigger for decision makers and plan users to consider how amenity values can be maintained and enhanced within the coastal environment, and the application of values should be applied relevant to the circumstances of the location where the activity is proposed and the nature of the activity.
210. In response to the submission by Kenepuru and Central Sounds Residents Association (868.044) and Clova Bay Residents Association 152.030), Policy 13.2.5 seeks to identify ways in which amenity values can be maintained and enhanced within the coastal environment. I consider that this Policy along with Policies 13.2.1 (a) (b) (d) and (g), and the Policies contained within the Coastal Structures section of Chapter 13<sup>39</sup>, provide a suitable framework on which to assess the potential adverse effects of coastal structures on amenity values of an area. All relevant policies are intended to be read together to ensure the outcomes set in the MEP's objectives are achieved. For these reasons I recommend that the submissions are rejected.
211. As outlined within the submission from Marine Farmers Association, some of these values, are also identified within other part of the MEP, for example 'enhancing freshwater quality' and 'indigenous biodiversity value'. The intention of the Policy is to also recognise that these values contribute to the amenity value of an area, as such consider that the inclusion is warranted. I therefore recommend the submission is rejected and that the Policy is retained.
212. I consider that the submissions of Te Runanga o Ngati Kuia (501.052) and EDS (698.077) to remove the wording 'where necessary' clause (b) are appropriate. This is because as outlined above, the extent of the application of these clauses will be made on a case by case basis.
213. For these reasons, I consider that the Policy provides clear recognition within the plan to guide assessment on how amenity values within the coastal environment can be maintained and

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<sup>38</sup> Explanation to Policy 13.2.5 in Volume 1 Chapter 13 of the MEP

<sup>39</sup> In particular Policies 13.10.15 and 13.10.22

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enhanced, both within and adjoining the coastal marine area. For these reasons I recommend that the submissions requesting changes to the policy are rejected, with the exception of the submissions from Te Runanga o Ngati Kuia (501.052) and EDS (698.077) as outlined above.

### **Recommendation**

214. For the reasons outlined above I recommend that clause (b) of Policy 13.2.5 is amended to read.

Policy 13.2.5 – Amenity values of the coastal environment can be maintained and enhanced by:

(b) maintaining and enhancing coastal and freshwater quality **where necessary**<sup>40</sup>;

### Policy 13.2.6

215. Of the twelve (12) submissions received in response to Policy 13.2.6 the majority of submissions opposed the policy raising concerns around the application of the policy in regard to notification.

216. PMNZ (433.054) is concerned that the communities' values about an area are often difficult to ascertain, and can be varied and conflicting. Further they consider that the values of individuals and communities should be reflected in the MEP via the consultation processes undertaken in developing this document and in submissions received on any resource consent application.

217. Te Runanga o Ngati Kuia (501.053) submitted that the policy should include a requirement to consult in order to determine the attributes of the area.

218. KiwiRail (873.43) considers that Policy 13.2.6 as worded infers that all coastal permit consent applications will be publicly notified in order to ascertain individual and community values about the area subject to the application. In addition, they seek that the policy includes a consideration of if the activity is associated within regionally significant infrastructure.

219. Z Energy (1244.034) consider that regulatory planning documents, including Regional Plans, need to provide certainty over the values which are important to a community and these values, including coastal amenity values, need to be clearly specified within this regulatory framework. Planning documents are periodically subject to review as required. They submit that there are many opportunities for individual and community values, including coastal amenity values, to be reviewed through community participation in the review process, including the making of primary and further submissions which are considered and debated in an open and transparent process provided for pursuant to the Act. It is neither necessary nor appropriate to include a policy which seeks to consider a community view that may be different to that provided for within the Plan.

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<sup>40</sup> Te Runanga O Ngati Kuia (501.052)

***Assessment***

220. The intention of Policy 13.2.6 is to recognise that the extent to which amenity values will be effected by an activity can be determined by consideration of the clauses within the policy.
221. I disagree with submitters who suggest that this policy implies a requirement for notification. Notification of a resource consent application, will be determined by the Council in line with s95 and 95A-G of the RMA, and this policy will have no implications on a notification assessment under these sections of the Act. I do not consider it appropriate to amend the policy to require that consultation occur to determine the values of an area, as this is controlled through the RMA and notification assessment process.
222. If a resource consent is notified, then as the Policy 13.2.6 suggests, in determining any effects on coastal amenity values, consideration will be given to community and individual values, amenity related attributes of the area, and the changing nature of the coastal environment.
223. I consider that it is difficult, as submitted by Z Energy that community values can be clearly specified within the MEP. As highlighted within the policy individual and community values will vary dependant of the area subject to the application. It would be impossible for the Council to clearly establish those values, in every location across Marlborough for inclusion within the Plan, and, these values are likely to be subject to change over time. What I believe is pertinent to this, is that this is not a new approach, and in reality already occurring during the consideration of any resource consent application, the policy just cements that process within the MEP.
224. I do not consider that the provisions require consideration of a community view that may be different from the plan. The policy recognises that community and individual views will be considered in determining the effect on amenity values, and it is up to the Council to determine the extent of the effects through the resource consent process.

***Recommendation***

225. For these reasons, I recommend that the submission seeking amendment or deletion of Policy 13.2.6 are rejected. Policy 13.2.6 remain as notified.

Methods

***Submissions***

226. Twenty-six (26) submissions were received in response to Methods 13.M.1-13.M.6. Of those submissions, sixteen (16) supported the methods as notified.
227. The Fishing Industry Submitters (710.023, 024, 025, 026, 027) oppose all methods within this section, on the basis that they do not facilitate integrated management in relation to Fisheries Act matters. These submissions are addressed within Matter 3 of this report at paragraphs 381-394.

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228. PMNZ (433.055) and NZTA (1002.057) submit that Method 13.M.5 is onerous with the requirement for the Harbourmaster and Maritime New Zealand to be consulted on every matter within the coastal marine area, and affected parties should be determined on a case by case basis under 95E of the RMA, rather than being affected parties for all coastal permits.
229. Friends of Nelson Haven and Tasman Bay Incorporated (716.153) submit that to reflect its statutory responsibilities under the Marine and Coastal Area (Takutai Moana) Act 2011 and the Minister of Conservation's responsibilities under section 28 of the RMA 1991, the Department of Conservation should be recognised as an affected party for all coastal permits.
230. Te Atiawa (1186.067) request that affected party status is given the Te Atiawa for all applications within Queen Charlotte Sound, Tory Channel, Port Gore to enable assessment of cultural matters and kaitiakitanga.

### **Assessment**

231. Section 95E of the RMA, identifies that a person is an 'affected person' if the authority decided that the activity's adverse effects on the person are minor or more than minor.
232. The Council, through method 13.M.5, has determined that for all coastal permits applications the Harbourmaster and Maritime New Zealand will be treated as affected parties under s95E of the Act, effectively meaning that the Council will consult directly with them on all coastal permit applications.
233. Section 89A of the RMA outlines when applications for coastal permits must be referred to Maritime New Zealand. This does not cover all activities that would require coastal permits within the coastal marine area. Currently the Council refers applications to Maritime New Zealand, when required to do so under s89A of the Act, and requests comments on applications from the Harbourmaster on a case by case basis<sup>41</sup>.
234. Given, the information received above, I consider that it would be more appropriate for the method to reflect the current process that is been undertaken by the Council. I have received no submissions that would indicate that this process is not working effectively at present, and that there is a need for these parties to be consulted on every application for a coastal permit. I agree with submitters that this appear to be onerous.
235. For these reasons, I recommend that method 13.M.5 is amended to reflect the current process that is occurring. My recommendation for the wording of this method is contained within paragraph 239 below, and I recommend that the submissions of PMNZ (433.055) and NZTA (1002.057) are accepted.
236. Friends of Nelson Haven and Tasman Bay Incorporated submit that DOC should be included as an affected party on all consents within the coastal environment. I have been provided information from the Councils Resource Consents<sup>42</sup> team, that at present DOC can be, but are

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<sup>41</sup> Email communication with Peter Johnson, Resource Consent Officer, MDC, 8th March 2018.

<sup>42</sup> Email to Debbie Donaldson from Peter Johnson, Marlborough District Council, 23 February 2018.

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not always treated as an affected party for consent applications within the coastal environment, and that consideration of the effects on DOC are considered on a case by case basis.

237. For these reasons and the absence of a submission from DOC requesting that they are specified as an affected party within the MEP, I consider that allowing this to be assessed on a case by case basis remains the most appropriate method. I therefore recommend that the submission is rejected.

### **Recommendation**

238. I recommend that Methods 13.M.1 – 13.M.4 and 13.M.6 remain as notified.
239. I recommend that Method 13.M.5 is amended to read;

#### **13.M.5 ~~Affected party status-Referral of Applications~~**

Any resource consent application for a coastal permit may be referred to The Harbourmaster and Maritime New Zealand (in accordance with S89A of the RMA) ~~will be referred to~~ treated as affected parties in respect of any resource consent application for a coastal permit, to enable these parties an opportunity to ~~assessment of~~ any potential impacts of the application on the safe navigation of boats that are considered relevant to the application, and recommend and conditions that they consider should be included within a costal permit for navigation related purposes.

## Matter 2: Cultural values within the Coastal Environment

240. There have been a number of submissions from Marlborough's tangata whenua iwi which have raised questions over the application of cultural values within the management framework for the coastal environment.

241. The submissions received primarily relate to the following topic matters that will be addressed within the assessment below;

- The consideration of cultural values to permitted activities within the Coastal Marine, Port, Port Landing Area and Marina Zones<sup>43</sup>
- The consideration of cultural values to restricted discretionary activities within the Coastal Marine, Port, Port Landing Area and Marina Zones<sup>44</sup>
- Consultation and liason<sup>45</sup>
- The absence of use cultural indicators in the management framework for the coastal environment<sup>46</sup>
- Treaty of Waitangi Settlements<sup>47</sup>

242. Before I begin the assessment of submissions I consider it imperative to acknowledge the role of Marlborough's tangata whenua iwi in the management of Marlborough's natural resources and their roles as mana whenua and kaitiaki<sup>48</sup>.

243. As outlined within Volume 1 Chapter 3 of the MEP, The Treaty of Waitangi/Te Tiriti of Waitangi is the basis for the rights and responsibilities of the Crown and Māori. The Treaty of Waitangi/Te Tiriti of Waitangi is recognised in resource management through Section 8 of the RMA, which states that in achieving the purpose of the RMA, the principles of Te Tiriti shall be taken into account.

244. The RMA, through s6(e) requires that the Council shall recognise and provide for the relationships of Māori and their culture and traditions within their ancestral lands, water, sites, waahi tapu, and other taonga. The Council through section 7(a) and (aa) is also required to

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<sup>43</sup> Te Atiawa (1186), Te Runanga o Toa Rangatira (166.047)

<sup>44</sup> Te Atiawa(1186)

<sup>45</sup> Te Atiawa (1186.082, 067)

<sup>46</sup> Te Atiawa (1186.021)

<sup>47</sup> Te Runanga o Toa Rangatira (166.047)

<sup>48</sup> Eight iwi have manawhenua in Marlborough: Ngāti Apa, Ngāti Kōata, Ngāti Kuia, Ngāti Rārua, Ngāti Toa, Ngāi Tahu, Rangitāne and Te Ātiawa. Information on an individual iwi history and the relationship of each iwi with the Marlborough environment can be found in iwi management plans and the relevant Deed of Settlement. Collectively, these eight iwi are referred to in the MEP as Marlborough's tangata whenua iwi – Section 32: Chapter 3 – Marlborough's tangata whenua iwi, footnote 3, pg 2



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give particular regard to kaitiakitanga and the ethic of stewardship in managing the use, development and protection of natural resources.

245. In relation to the coastal environment, Policy 2 of the NZCPS requires that the principles of The Treaty of Waitangi/Te Tiriti of Waitangi and kaitiakitanga are taken into account by recognising, involving, providing for and consulting with Māori.
246. Within the MEP Chapter 3 – Marlborough’s tangata whenua iwi, provides for objectives, policies and methods to recognise and provide for the cultural, traditional and spiritual values of Māori in the management of Marlborough’s natural and physical resources.
247. Within the Chapter 13 of the MEP relating to the use of the coastal environment, Policy 13.2.1 provides for activities within the coastal environment only those activities are in appropriate locations, forms and limits that recognise and provide for, or otherwise avoid, remedy or mitigate adverse effects on the relationship of Māori and their culture and traditions within their ancestral lands, water, sites, waahi tapu, and other taonga.
248. In addition the Marine and Coastal Area (Takutai Moana) Act 2011 acknowledges the importance of the marine and coastal area to all New Zealanders and the customary interests of iwi, hapū, and whānau in that area.
249. As part of the development of the MEP, a series of hui were held with Marlborough’s tangata whenua iwi to determine the resource management issues for significance for them. It is the issues that came out of these hui that are contained within the MEP and the MEP provides objectives and policies to address them<sup>49</sup>.

### **The consideration of cultural values to Permitted Activities within the Coastal Marine, Port and Marina Zones**

#### ***Submissions***

250. The submissions received request that permitted activities provided for within the coastal environment are subject to consideration of the effects of those activities on cultural values.
251. Te Atiawa o Te Waka-a-Maui<sup>50</sup> have made submissions in respect to the Permitted Activity rules, and the Permitted activity standards that apply to activities within the Coastal Marine Zone, Port and Marina Zone.
252. Te Runanga o Toa Rangatira (166.047) have made a submissions in relation to Policy 13.3.1 that outlines that a permissive approach will be taken to recreational activities, and Policy 13.13.5 in relation to flood mitigation.
253. Te Atiawa o Te Waka-a-Maui (1186.069) raise concerns that enabling the unfettered use of the coastal marine area will degrade environment and compromise cultural values, and that the

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<sup>49</sup> As outlined within the introduction to Volume 1 Chapter 3 of the MEP.

<sup>50</sup> Te Atiawa o Te Waka-a-Maui (1186.158, 159, 161, 162, 184, 031, 032, 033)

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policy should be amended to provide a balance between recreational use and environmental and cultural protection.

254. Te Atiawa o Te Waka-a-Maui request that a standard is applied to all permitted activities requiring the consideration of cultural values, in particular, in relation to the construction, use maintenance, repair or extension of a building or structure<sup>51</sup>, and the standards in relation to disturbance of foreshore and seabed<sup>52</sup>.
255. Additionally, for permitted activities, namely the maintenance of structures<sup>53</sup>, dredging to maintain water depths for ships berthage and manoeuvring<sup>54</sup>, and the clearance of natural material for flood mitigation<sup>55</sup>, Te Atiawa request the removal of these permitted activities, or the inclusion of a standard for each of these activities to exclude permitted activities taking place within cultural areas.
256. Mr P Rene (1023.09) has submitted that a number of additional permitted activities are provided for within Chapter 16 Coastal Marine Zone Rules; namely kaitiakitanga, iwi management plans and community wellbeing, with standards that apply to these 'activities'.

### **Assessment**

257. It is undoubted that there is an obligation from the RMA and the NZCPS and the objectives and policies of the MEP, for the Council to recognise and provide for the cultural values of Marlborough's tangata whenua iwi in the management of the coastal environment. This involves the management of activities that may have adverse effects on those values.
258. The nature of permitted activities is such that the standards contained within the rules effectively provide a restriction on the nature or extent to which that activity that can occur, without the requirement for resource consent, and as a right without the need to obtain permission or consult under the Act.
259. The nature of activities provided for as permitted activities within the zones of the coastal environment vary significantly. The Coastal Marine Zone provides for a low level of permitted activity that reflective of the predominantly undeveloped nature of the zone. The Port Landing Zone provides for permitted activities that provide for the function of the Ports, however acknowledge the more sensitive environment in which these ports are located. The Marina Zone and Port Zones are far more permissive, recognising the very developed nature of these areas, and the need to provide for the operational requirements of these facilities, particularly as some are identified as regionally significant infrastructure.
260. Permitted activities activities/standards have been included within the MEP to ensure that effects (including cultural effects) of activities are less than minor. Other activity statuses (ie controlled, restricted discretionary, and discretionary activities provide for the consideration an

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<sup>51</sup> Rule 13.2.1 and 15.2.2

<sup>52</sup> Rule 13.2.2 and Rule 15.2.2

<sup>53</sup> Rule 13.1.15 and Rule 13.3.6

<sup>54</sup> Rules 13.1.24, 13.3.14, 15.3.13

<sup>55</sup> Rules 13.1.27, 13.3.16, 15.3.14, 16.3.10

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assessment of effects on a case by case basis, and this is reflected in the assessment below of restricted discretionary activities at paragraphs 273-279.

261. The submissions have requested the addition of a permitted development standard to require consideration of cultural values area for all permitted activities. The implications of this standard would mean that every person undertaking an activity within the zones of the coastal environment would need to consult with iwi to establish if the activity was likely to have an effect on the cultural values of the area. Given the range of activities provided for within the coastal environment through the MEP this considered to is overly cumbersome, but primarily impractical for both the person undertaken the activity, and for iwi in responding to such enquiries. It also falls outside of the intention of permitted activities that provide for activities to occur as a right.
262. This however does not mean that I do not consider that the permitted activities provided for within the MEP should have level of disregard to cultural values.
263. I acknowledge the concerns of submitters. However, unfortunately at this time I have not been provided with information that addresses how their concerns may be overcome, bearing in mind the way that permitted activities are applied and assessed. I am not aware of the specific cultural values of importance to iwi within the Marlborough coastal environment that the submitters seek to be recognised and provided for within the permitted activity rules.
264. In addition I am unaware of the what standards would be required to be placed on the permitted activities raised within submissions, in order to ensure that cultural values are recognised and provided for. It is imperative that any standards for permitted activities are clearly measurable or quantifiable.
265. As outlined above, at this time I do not have the knowledge of the values that iwi consider are not being recognised or provided for within these zones, or the knowledge of cultural sites where permitted activities could be excluded from occurring.
266. If information could be provided by the submitters that informs me of what, if any, standards could be applied these activities, or identifies areas that should be excluded from these activities taking place, I would be happy to consider the implication and actions of such recommendations.
267. In repose to the submission of Mr Rene, the additional permitted activities requested for inclusion in Rules 16.1 of the MEP, I consider more appropriately reflect the values of the Coastal Environment, and Māori cultural values. I do not consider that they 'activities' that can be undertaken and provided for within the plan with measureable and quantifiable standards placed on them. For this reason I recommend that the submission of Mr Rene is rejected.

### ***Recommendation***

268. For these reason, at this time, I am unable to recommend that the amendments to the MEP as proposed by Te Atiwawa, Te Runanga o Toa Rangatira and Te Atiawa o Te Waka-a-Mau

(1186.069) are accepted, and therefore until further information is provided and can be reconsidered I reject the submissions.

## **The consideration of cultural values to Restricted Discretionary Activities within the Port and Marina Zones**

### ***Submissions***

269. In regard to Restricted discretionary activities Te Atiawa<sup>56</sup> and Te Runanga O Ngati Kuia<sup>57</sup> request that activities rules relating to the construction of buildings<sup>58</sup>, commercial activity<sup>59</sup>, disturbance of foreshore and seabed<sup>60</sup>, and reclamation of the foreshore and seabed, include an additional matter of discretion to take into account cultural matters and sites.
270. It is noted that Te Atiawa have stated within the submissions that within the Port and Marina Zones there are sites of cultural significance, but have not provided information as to the location, extent or nature of those sites.

### ***Assessment***

271. In line with the clear direction from the RMA, NZCPS and the objectives and policies of the MEP, there is an obligation for the Council to recognise and provide for Maori cultural values in the management of activities within the coastal environment.
272. The submissions by Te Atiawa indicate that there are areas of the Port and Marina Zones that are of cultural significance, and that that consideration of this is not provided for within some of the notified provisions of the MEP.
273. The nature of Restricted Discretionary Activities, is that the Council only has the ability through the resource consent process to consider and make an assessment against those matters listed within the matters of discretion within the Restricted Discretionary Rule. This means that if cultural values are not listed as a matter of discretion, then these matters will not be assessed through the resource consent process.
274. In order for the notified provision to give effect to the higher order documents, I consider it necessary in light of the submissions of Te Atiawa and Te Runanga O Ngati Kuia, to include a matter of discretion in relation to those activities raised by Te Atiawa ,that requires an assessment of the effects of the activity on Maori cultural values.
275. I consider that the addition of a matter of discretion to consider the effects of activities on Māori cultural values, is effective in achieving the objectives of the MEP and the Act. As outlined within paragraph 249 above, the objectives within Volume 1 Chapter 3 of the MEP require that the cultural, traditional and spiritual values of Māori are recognised and provided for. Requiring

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<sup>56</sup> Te Atiawa o Te Waka-a-Maui (1186.166,167,168,169, 179, 180 and 181)

<sup>57</sup> Te Runanga O Ngati Kuia (501.066)

<sup>58</sup> Rule 13.4.1 and 15.5.1

<sup>59</sup> Rule 13.4.2

<sup>60</sup> Rule 13.4.3 and 15.5.2

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direct consideration of these matters through the resource consent process will be effective in achieving these objectives.

276. I also consider that the recommended amendment, will be efficient in achieving the purpose of the Act. While there will be some additional costs to the Council and applicants in engaging within tangata whenua, the benefits of the amendments, in ensuring that Māori cultural values within Marlborough's coastal environment are recognised and provided I believe outweigh these additional costs.

### **Recommendation**

277. For the reasons outlined above I recommend that an additional 'Matter over which the Council will exercise its discretion' is added to Rules 13.4.1, 13.4.2, 13.4.3 and 13.4.5 with the Port Zone, and Rules 15.5.1, 15.5.2 and 15.5.3, to read;

[X.X.X.X Effects on the cultural values of Marlborough's tangata whenua iwi](#)<sup>61</sup>

## Consultation and Liaison

### **Submissions**

278. Te Atiawa (1186.067) request that affected party status is given to Te Atiawa for all applications within Queen Charlotte Sound, Tory Channel, Port Gore, to enable assessment of cultural matters and kaitiakitanga.
279. Te Atiawa (1186.067) also seek that MDC liaise within Te Atiawa in addition to Port and Marina operators, on matters of landscape quality and the integration of the foreshore areas, in relation to notified Method 13.M.26.

### **Assessment**

280. In response to the submission by Te Atiawa to include Te Atiawa as affected party on all consent within the Queen Charlotte Sound, Tory Channel, Port Gore, I consider that the is sufficient direction within the MEP, within Chapter 3 – Marlborough's tangata whenua iwi, in particular Policy 3.1.2 and Methods 3.M.2 Recognising statutory acknowledgements and 3.M.4 Consultation to ensure that the relevant iwi are engaged with and consulted with on any resource consent applications. For this reason, I recommend that the submission is rejected.
281. In relation to the liaison proposed between the Council and Port and Marina operators, I cannot see any reason to exclude iwi from this group. Te Atiawa have submitted that there are areas within the Port and Marina Zones that are of cultural significance to Te Atiawa. There maybe (as pointed out within the further submission by PMNZ (FS944)) circumstances where sites will not be of cultural significance. If iwi are involved early on through this liaison process, this will be established early. I recommend the submission of Te Atiawa (1186.067) is accepted and Method 13.M.26 is amended to include iwi.

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<sup>61</sup> Te Atiawa o Te Waka-a-Maui (1186.166,167,168,169, 179, 180 and 181), Te Runanga O Ngati Kuia (501.066

Recommendation

282. I recommend that Method 13.M.26 is amended to read;

**13.M.26 Liaison**

*The Council will liaise with port and marina operators [and iwi](#)<sup>62</sup> in enhancing the landscape quality and integration of foreshore areas and town centres.*

## Cultural Indicators

### **Submissions**

283. Te Atiawa (1186.021) submit that cultural indicators are incorporated into the management of the coast. They also submit<sup>63</sup> that a AER within Chapter 13 is provided to include specific goals and monitoring for cultural values.

### **Assessment and recommendation**

284. Volume 1 – Chapter 3 of the MEP recognises cultural indicators within Method 3.M.5. This method provides for Council to work with Marlborough’s tangata whenua iwi to develop cultural indicators to assist in monitoring the state of Marlborough’s natural and physical environment. As discussed within the s42A report for Chapter 3<sup>64</sup> “The method discusses the development of the indicators being within a non-regulatory work space of the Council, and that indicators will be developed in partnership with iwi. The report recognises that cultural indicators were an important matter discussed at the IWG hui and the provisions around them in Chapter 3 reflect the outcome of the formal consultation process”.

285. There is a commitment from the Council to work in partnership with iwi to develop cultural indicators through Method 3.M.5. Following from this, until these are developed, I think it is preemptive to include an AER within the plan that provide for goals to monitor the values that will ultimately come from the development of the cultural indicators. For this reason I recommend the submission on Te Atiawa in regard to cultural indicators is rejected.

## Treaty of Waitangi Settlements

### **Submission**

286. Totaranui Limited (233.030) have submitted that Chapter 13 of the MEP should provide an additional issue and related objectives and policies concerned with recognising and ensuring provision is made for satisfaction of the outcomes of the Treaty of Waitangi settlements that apply to the Sounds. These should include specific reference to resources and opportunities being made available and preferences to ensure these settlements can be given effect to.

### **Assessment and Recommendation**

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<sup>62</sup> Te Atiawa (1186.067)

<sup>63</sup> Te Atiawa (1186.083)

<sup>64</sup> Section 42A hearings Report – Marlboroughs Tangata Whunua Iwi, By Rachel Anderson 18th October 2017 Pg 11

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287. It is clear from the submitter that they are primarily concerned with the MEP reflecting Treaty of Waitangi settlement outcomes in relation to the provision of Aquaculture space.
288. The provisions for Aquaculture within the MEP are still in development. It is impossible at to predict the precise nature of these provisions. For this reason do not consider that it is appropriate to amend the provisions of the notified MEP to make reference to aquaculture.
289. Chapter 3 of the MEP recognises those deeds of the settlement with Marlborough's tangata whenua iwi<sup>65</sup>, and the statutory acknowledgments within Marlborough. Methods 3.M.2 recognises the statutory acknowledgments, and requires the Council to have regard to those acknowledgements. Method M.3.3 provides for the consideration of Iwi management plans, and the roles that these plans will have and be used for.
290. I have not been made aware of any settlement outcomes that have not been provided for within the notified provisions, that do not relate to aquaculture. I would be happy to consider at the hearing any outcomes that the submitter considers have not been directly provided for within the MEP.
291. At this time, for the above reasons I recommend that the submission of Toaranui (233.030) is rejected.

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<sup>65</sup> MEP Volume 1 – Chapter 3 pg 3-2

# Matter 3: Recreational Activities

## *Overview of Provisions - Recreation*

292. Recreational activities in the coastal environment are specifically dealt within Volume 1 Chapter 13 – The use of the Coastal Environment. This section of the report provides an assessment of the submissions received on the following provisions:

- Issue 13B
- Objective 13.3
- Policy 13.3.1 – 13.3.4
- Method 13.M.7 and 13.M.8

293. Overall the provisions within this section of Chapter 13 seek to provide a permissive approach for recreational activities to be undertaken within the coastal environment, in order to support the social wellbeing of people and communities.

### Issue 13B, Objective 13.3 and Policy 13.3.1

#### **Submissions**

294. Submission received on Issue 13B, Objective 13.3 and Policy 13.3.1 that either object to the provisions or support in part, seek amendments to the exceptions listed in Policy 13.3.1 that outline when a permissive approach to recreational activities would not be taken.

295. The submissions raised the following topic matters;

- Introduction of pests<sup>66</sup>
- Impact of recreational activities on sites of cultural and historic heritage<sup>67</sup>
- Noise<sup>68</sup>
- Public Access<sup>69</sup>
- Drones<sup>70</sup>

296. Cape Campbell Farm (1051.003) have made submission regarding motorbike use in the coastal riparian strip between Marfells Beach and further south, and the adverse effects that this use is having on the environment of this area. Primary concerns from the submitter relate to the number of users and lack of signage and information for users within this area. The use

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<sup>66</sup> Forest and Bird (715.229)

<sup>67</sup> Te Runanga o Toa Rangatira (166.047) and Heritage New Zealand (768.049) Cape Campbell Farm(1051.003)

<sup>68</sup> The Nelson Marlborough Health Board(280.060)

<sup>69</sup> Federated Farmers (425.222)

<sup>70</sup> Queen Charlotte Sounds Residents Association (504.059)



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of vehicles on the foreshore is assessed in more detail in Matter 7 at paragraph 833. An assessment of this submission will be included within this section of the report.

### **Assessment**

#### Pests

In response to the submission of Forest and Bird, regarding the introduction of pests from recreational activities, unfortunately no information has been provided within their submission that assists me to understand the extent of this problem, or the nature of the pests that they are concerned about. Without this information it is difficult to establish:

- (a) the extent of the problem,
- (b) the activities that would primarily be associated within this problem, and
- (c) if there are other parts of the MEP, or other regulatory or no-regulatory methods that could be employed by the Council to assist in addressing this problem.

Until such time as I have this information, I do not consider the introduction of a new exception in relation to pests introduced by recreational activities is appropriate. I would be willing to reconsider this recommendation if sufficient information was provided at the hearing. At this time I recommend that this submission is rejected.

#### Impact of recreational activities on sites of cultural and historic heritage

- 297. Te Runanga o Toa Rangatira (166.047) and Heritage New Zealand (768.049) support Policy 13.3.1 in part, however seek relief in the form of additional policy consideration to 13.3.1 to provide an exception to recreational activities where the activity would adversely affect wahi tapu area, or sites of historic heritage as identified within the MEP.
- 298. Te Atiawa o Te Waka-a-Maui (1186.068) seeks the exception to extend to where recreational activities will affect cultural values of the area.
- 299. Under the s6(e) and (f) of the RMA there is an obligation on the Council to recognise and provide for the protection historic and cultural heritage. In regard to cultural heritage, this obligation is outlined within paragraphs 245 -251 of this report in Matter 2. The application of this assessment in relation to permitted activities is also discussed within paragraphs 259 -269 above.
- 300. The MEP provides for recreational activities within the coastal environment primarily as permitted activities. This is because these activities are generally activities that are considered to have minimal effects on the environment, and there is an expectation by the public that the coastal environment can be used for the enjoyment of all (reference NZCPS here as well, Objective 4, Policy 6, Policy 18).
- 301. I acknowledge the concerns of both iwi and Heritage New Zealand in regard to potential effects of recreational activities on sites of cultural and historic heritage value. I have not however been

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made aware by the submitters of any specific sites of concern, or specific activities which they are concerned may have an effect on these areas.

302. If information can be provided by the submitters at the Council hearing that either identifies sites where they consider protection from recreational activities is required, or identifies activities that they consider require standards to be applied to an activity to ensure that adverse effects on these sites do not occur I would be happy to consider this further.
303. I would also be able to consider if there are potentially other avenues outside of the MEP to prevent recreational activities having adverse effects on these sites. This may include for example bylaws developed under the Local Government Act 2002 to control the use of vehicles in certain public places.
304. Until such time as I am provided with further information on this matter, I recommend that the submissions of Te Runanga o Toa Rangatira (166.047) and Heritage New Zealand (768.049) are rejected.

### Noise

305. The Nelson Marlborough Health Board (280.060) seek the use of the term 'unreasonable noise' in addition to excessive noise within exception (b) Policy 13.3.1.
306. I concur with this submission as the RMA uses both terms in s16 and s327 of the RMA. As such there is an obligation to avoid excessive and unreasonable noise under the RMA, this amendment is recommended to be accepted.

### Public Access

307. Federated Farmers (425.222) submit that by outlining a permissive approach to recreational activities, this policy concerns public access to private land. The submitter notes that there is no legal requirement for public access to areas of privately owned land for recreation without permission of the landowner.
308. I concur with Federated Farmers that the wording of policy 13.3.1 indicates a presumption of recreational activities over all land, and it is acknowledged that within the coastal environment, large areas of land are privately owned, and access for recreational uses need not be afforded if the owner chooses not to. The relief sort by Federated Farmers will not change the application of the policy, but will help to provide some clarification to plan users and landowners.

### Reverse Sensitivity

309. Aquaculture New Zealand (401.135) and Marine Farming Association (426.140) seek an exception to be included in Policy 13.3.1 where it would give rise to reverse sensitivity issues.
310. The inclusion of an exception for reverse sensitivity, I consider gives an impression of a priority to established activities that are taking place within the coastal environment. The coastal marine area is a public space, and as such presumption should be given to public use as is

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required in Policy 18 of the NZCPS. In addition, it is unlikely that recreational users would choose to recreate in areas where their amenity would be comprised from existing established uses of the coastal environment, and thus the need for this proposed exemption would be limited, and difficult to manage. In addition, Policy 13.3.1 contains exception (e) which provides an exception where the recreational activities would compromise authorised uses and developments in the coastal marine area. As such within the Policy as notified there is already consideration of existing uses of the coastal marine area, and a further exception is not considered necessary. I therefore recommend that submissions Aquaculture New Zealand (401.135) and Marine Farming Association (426.140) are rejected.

### Drones

311. Queen Charlotte Sounds Residents Association (504.059) submitted on concerns about the use of drones for recreational activities and dangers of drones to overhead power lines.
312. It is recommended that the submission of Queen Charlotte Sounds Residents Association is rejected on the basis that the use of drones is controlled by New Zealand Civil Aviation Rules<sup>71</sup> and therefore is outside the scope of MEP.

### Recommendations

313. I recommend that the related explanation of Issue 13B is amended as follows;

***Issue 13B – Providing for social wellbeing by ensuring people and communities can carry out recreational activities.***

*Recreation is one of the most extensive uses of Marlborough’s coastal environment, especially within the Marlborough Sounds, [given the recreational value of sheltered and inshore coastal waters](#)<sup>72</sup>. Recreational activities range from active to passive pursuits. Much of the value placed on the coastal marine area is derived from the fact that it is the largest area of public open space in Marlborough and the public have a long-held expectation that they have a right to use and enjoy this area for a variety of purposes. They place significant amenity value on the coastal environment and its use for recreation. This environment therefore needs to be safeguarded for future generations.*

314. I recommend that Objective 13.3 remain as notified.
315. I recommend that Policy 13.3.1 is amended as follows;

***Policy 13.3.1 – A permissive approach to recreational activities in [public areas](#)<sup>73</sup> will be adopted, except where these:***

***(a) require associated structures and occupy the coastal marine area;***

<sup>71</sup> Civil Aviation Authority of New Zealand <https://www.caa.govt.nz>

<sup>72</sup> Friends of Nelson Haven and Tasman Bay Incorporated 716.154

<sup>73</sup> Federated Farmers 4.25.222

- (b) cause adverse environmental effects, including those resulting from discharges of contaminants, unreasonable or<sup>74</sup> excessive noise and damage to significant indigenous vegetation and significant habitats of indigenous fauna;*
- (c) do not maintain or enhance public access to and along the coastal marine area;*
- (d) endanger public health and safety;*
- (e) compromise authorised uses and developments of the coastal marine area; or*
- (f) adversely affect the amenity values of the area.*

### **Policy 13.3.2**

#### ***Submissions***

- 316. Policy 13.3.2 outlines that in achieving Objective 13.3 there is a need to maintain and enhance opportunities for recreational use of the coastal environment.
- 317. The submissions received in response to Policy 13.3.2 primarily question the scope of the policy and its application.
- 318. Forest and Bird (715.231) submit that the remit of this policy should be extended to the coastal environment, not just to the coastal marine area as proposed.
- 319. Federated Farmers (425.223) seek that Policy 13.3.2 is deleted. They consider that this policy is addressed in Chapter 9 Public Access and Open Space within the MEP. Federated Farmers are primarily concerned with access to the coastal marine area through private property, and the implications to landowners from this access.

#### ***Assessment***

- 320. In response to the submission by Forest and Bird, under NZCPS Policy 18 there is an obligation to recognise the need for and provide for public open space for public use, and active and passive recreation within the coastal marine area. The coastal marine area is a publically accessible resource, as opposed to parts of the coastal environment where, with private ownership of land access maybe restricted. I consider that Policy 13.3.2 is reflective of this obligation within the NZCPS in the coastal marine area, and therefore reject the submission to extend to the coastal environment for this reason.
- 321. I acknowledge the submission of Federated Farmers (425.223) that public access to the coastal marine area is addressed within Chapter 9 Public Access and Open Space within the MEP, however as outlined within the s32 report this policy does not relate solely to access. The s32 report states 'Recreational use of the coast is likely to increase and become more diverse in the future. Linked with national direction to recognise and provide for public access to and along the coastal marine area as a matter of national importance, the Council considers there is

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<sup>74</sup> Nelson Marlborough District Health Board 280.060

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also a need to maintain and enhance opportunities for recreational use of the coastal environment. For this reason, Policy 13.3.2 has been included in the MEP<sup>75</sup>.

### **Recommendation**

322. I recommend that the submission of Forest and Bird and Federated Farmers are rejected and Policy 13.3.2 remain as notified.

### **Policy 13.3.3**

#### **Submissions and Assessment**

323. The Nelson Marlborough Health Board (280.061) seek the change of the term 'public nuisance' to the term 'nuisance' within explanation to Policy 13.3.3, stating that the terminology is inconsistent with the terminology used in the Act. While I acknowledge the submission, I believe that the intention of the Policy is clearer to plan users, and reflects plain English within the preface of 'public' to the word 'nuisance'. I therefore reject this submission.
324. Mr Eric Jorgensen (404.024) submission raises concern regarding the ability to control the level of recreational activity occurring, and the effects that this level of recreational use of the coastal environment is having.
325. I acknowledge the submission of Mr Eric Jorgensen, however consider that the ability of the Council to control the level of recreational activity within the coastal environment, is to a certain extent outside of the functions of the Council under the RMA. This is due to the requirements under the NZCPS and the RMA to provide for recreational activities within the coastal marine area. Recreational activities that are common within Marlborough are primarily activities of low intensity with limited effects on the environment<sup>76</sup>. Any anticipated effects of these activities are controlled by the management framework set up within this suite of policies, and a rule framework with an assumption towards permitted activities. The extent to which these permitted activities are taken up, and within which area, is almost impossible for the Council to predict and control. If there was evidence presented that a certain recreational activity, at a certain level, was having adverse effects on the coastal environment, or that recreational activity had caused a demonstrated adverse effect to an area, then it may be open to the Council to look at placing restrictions on that activity (i.e. making it controlled or discretionary) or prohibiting an activity within areas. However, at this time no such evidence has been presented by the submitter that this is the case, and in if that were to occur would be subject to the s32 evaluation process under the RMA.

### **Recommendation**

326. I recommend that the Policy 13.3.3 remain as notified.

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<sup>75</sup> Section 32: Chapter 13 – Appropriate activities, recreation, fishing, residential, shipping, Lake Grassmere. Pg27

<sup>76</sup> Recreational activities common in Marlborough are outlined within the Introduction to the 'Recreational Activities' section of Volume 1 – Chapter 13 of the MEP.

**Policy 13.3.4**

327. The intention of Policy 13.3.4 is to place a priority of recreational use of the coastal marine area in Tory Channel and Queen Charlotte Sound over commercial activities that require occupation of the coastal marine area.
328. Of primary concern to submitters were the following topic matters in relation to this Policy;
- The geographic limitations of the policy
  - Recreational priority

Recreational Priority

**Submissions**

329. Douglas and Collen Robbins (640.006), Glenda Vera Robb (738.009) and Melva Joy Robb (935.006) submit that recreational uses should not be given priority over commercial activities, as commercial activities are necessary to maintain services, employment and income, and the area is the entrance for road and rail north-south corridor and transportation of logs from Shakespeare Bay.
330. Salvaor Delgado Oro Laprida (218.001) submits that Policy 13.3.4 as notified is 'exclusive and anti-democratic or people's participatory', and that the policy should be amended so that both recreational activities and commercial activities should be placed on an equal footing.
331. PMNZ (433.56) seek that the scope of the exemptions of this Policy, being the Port and Marina Zones, is extended to include the area within the National Transportation Route Overlay.
332. Aquaculture New Zealand (401.136) and Marine Farmers Associations (426.141) submits that Tory Channel should be excluded from this policy, as the policy does not reflect reality that there are a number of marine farms located within Tory Channel and East Bay and that commercial ferries have priority over all recreational activities.

**Assessment**

333. Firstly, I consider it is important to note that this policy gives priority to recreational activities over commercial activities that require occupation of the coastal marine area. Section 2 of the RMA provides a definition of 'occupy', meaning *the activity of occupying any part of the coastal marine area (a) where the occupation is reasonably necessary for another activity; and (b) where it is to the exclusion of all or any other class of person who are not expressly allowed to occupy that part of the coastal marine area by a rule in a plan or resource consent; and (c) for a period of time, that but for a rule in a plan of resource consent or lease, would be necessary to give effect to the exclusion of other persons, whether in a physical or legal sense.*

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334. From this and the discussion in the s32 report<sup>77</sup>, it is clear that the intention to provide priority for recreational activities over commercial activities, where the commercial activity is required to occupy the coastal marine area, to the exclusion of others and for a period of time that would give a physical or legal exclusion. The most obvious activity that comes to my mind is marine farming.
335. I recommend from this, that the submissions of Douglas and Collen Robbins(640.006), Glenda Vera Robb (738.009) and Melva Joy Robb (935.006), Salvaor Delgado Oro Laprida (218.001), be rejected as the circumstances in which the priority of recreation over commercial activities is very limited, to certain commercial activities, and does not provide an overarching 'recreational' priority across the Sounds, to the detriment of commercial users.
336. I reject the submission of PMNZ, that requests that the national transportation routes are specifically excluded from this policy. As outlined above the definition of 'occupy' within the RMA, occupy is to occupy an area of the coastal marine area to the exclusion of others and for a time that would be an exclusion. I do not consider that in general shipping activities, while taking priority over recreational uses for short periods, do not exclude recreational users from areas of the coastal marine area. Commercial shipping activities are more likely to be a short-term inconvenience to recreational users as opposed to an exclusion. It is considered that there are other methods available outside the plan, such as Maritime Safety Rules<sup>78</sup>, and the enforcement from the Harbourmaster for these rules that provide suitable reassurance to commercial users of the coastal marine area that their activities will not be compromised by recreational use. For this reason, it is recommended that the part of the submission of Aquaculture New Zealand (401.136) and Marine Farmers Associations (426.141) that requests the exclusion of Tory Channel from this policy on the basis that commercial ferries have priory within this area, is also rejected.

### Physical Extent of Application of the Policy

#### **Submissions**

337. Clova Bay Residents Association (CBRA) (152.025), Friends of Nelson Haven and Tasman Bay (FNHTB) (716.155) and Kenepuru and Central Sounds Residents Association (KCSRA) (868.049) submit that Policy 13.3.4 as notified is too limiting in the areas specified within the policy where recreational activities should be afforded priority over commercial activities. The submissions of CBRA and KCSRA request that the Policy is amended to include specific reference to other areas including "area of the Pelorus and Kenepuru Sound within high public use or environmental and public amenity value", as these areas are used for recreation and should be afforded the same level of protection from marine farming as other areas. The submission of FNHTB request the reference is extended to Tennyson Inlet, parts of Pelorous Sound, Okiwi Bay, Admiralty Bay, and eastern Tasman Bay.

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<sup>77</sup> Section 32: Chapter 13 – Appropriate activities, recreation, fishing, residential, shipping, Lake Grassmere. Pg27

<sup>78</sup> [Maritimenz.govt.nz/rules/](http://Maritimenz.govt.nz/rules/)

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338. Michael and Kirsten Gerard (424.052) submit that the policy should extend to the entire Sounds.
339. Aquaculture New Zealand (401.136) and Marine Farmers Associations (426.141) request that Tory Channel and East Bay are excluded from Policy 13.2.4 on the grounds that there are a number of marine farms located in Tory Channel and East Bay.

### **Assessment**

340. Firstly, I note that Policy 13.3.4 does not act as a policy that will serve to prohibit the occupation of the coastal marine area for commercial use within Queen Charlotte Sound and Tory Channel. The intention of the policy is to recognise that within these areas there is a high level of recreational use, and that this use that should be given a level of priority over commercial use within these areas.
341. Policy 13.3.4 reflects the operative policy 1.6 within the Coastal Marine chapter of the MSRMP. There has been no evidence presented to me at this time that suggests that this policy is not fit for purpose, or has unduly restricted commercial occupation (where a full assessment of effects has been undertaken) within these areas, given, as the submitters<sup>79</sup> have pointed out, there are marine farms located within these bays.
342. The submissions of the three resident's associations seek that other parts of the Sounds are specified within the policy, in particular Pelorus and Kenepuru Sound, Tennyson Inlet, parts of Pelorous Sound, Okiwi Bay, Admiralty Bay, and eastern Tasman Bay. As outlined within the s32 report the policy serves to recognise the significant recreational use of Queen Charlotte and Tory Channel, and that this use must have priority over commercial interest that require occupation of the coastal marine area<sup>80</sup>.
343. I acknowledge that there is recreational use of the coastal marine area occurring throughout the Marlborough Sounds to varying degrees, however the policy seeks to recognise a particular area of Marlborough's coastal environment that has long been significant for recreational activity and seeks to ensure that this continues<sup>81</sup>.
344. It is important to note that Policy 13.2.4 does not exclude the consideration of the impacts of commercial occupation of the coastal marine area on recreational uses in other part of the sounds. Policy 13.2.1 requires that activities within the coastal environment recognise and provide for, or otherwise avoid, remedy or mitigate adverse effects on identified values across Marlborough's coastal environment. This includes (c) the extensive area of open space within the coastal area available for the public to use and enjoy, including for recreational activities. This management framework is taken from the operative MSRMP where Policy 1.1 within Chapter 9 Coastal Marine Zone requires that adverse effect on recreation values within the coastal marine area are avoided, remedied or mitigated.

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<sup>79</sup> Aquaculture New Zealand (401.136) and Marine Farmers Associations (426.141)

<sup>80</sup> Section 32: Chapter 13 – Appropriate activities, recreation, fishing, residential, shipping, Lake Grassmere Pg 27

<sup>81</sup> Section 32: Chapter 13 – Appropriate activities, recreation, fishing, residential, shipping, Lake Grassmere Pg 28



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345. I believe that the policy framework within the MEP provides sufficient consideration of the impact of commercial occupation of the coastal environment, across the whole of Marlborough's coastal environment. Any occupation of the coastal marine area, will require resource consent, and as such an assessment will be undertaken of the effects of the occupation on the recreational use of the area to which the application is subject.
346. For the above reasons the submissions of Clova Bay Residents Association (152.025), Friends of Nelson Haven and Tasman Bay (716.155) and Kenepuru and Central Sounds Residents Association (868.049), Aquaculture New Zealand (401.136) and Marine Farmers Associations (426.141) are rejected.

### Recommendations

347. I recommend that the Policy 13.3.4 remain as notified.
348. It is noted that no submissions were received in respect of Methods 13.M.7 and 13.M.8 and as such these methods are to remain as notified.

# Matter 4 - Fishing and Impact of Activities on Fisheries Resources

## Fishing within the MEP

349. As outlined within the s32 report<sup>82</sup> the waters of the Marlborough Sounds are important for fisheries for a number of reasons, and therefore ensuring there is a sustainable fishery within the Marlborough Sounds is an important outcome for the MEP.
350. Submissions to the notified provisions of the MEP raise two main topics in respect to fishing that relate to;
- a) The specific fishing provisions included in Chapter 13 – Issue 13C and subsequent provisions; and
  - b) The Impact of activities managed by Chapter 13 on fisheries resources
351. Each of these topics will be addressed below.
352. It is noted that the operative MSRMP contains no provisions specifically relating to Fishing, and only includes Method 5.3.12 that promotes the Council's roles in advocacy and support.

## The proposed Fishing provisions

353. Fishing is specifically dealt with in Volume 1 Chapter 13 – The use of the Coastal Environment, within the following provisions:
- Issue 13C
  - Objective 13.4
  - Policy 13.4.1
  - Policy 13.4.2
  - Method 13.M.9
354. The notified management framework for fisheries within the MEP seeks to achieve the sustainable management of fisheries in the Marlborough Sounds (Objective 13.4). This is to be achieved through support and advocacy for intensive management of fisheries within the Marlborough Sounds (Policy 13.4.1) and support for community groups working toward a sustainable fishery for the Marlborough sounds (Policy 13.4.2).

## Submissions

355. All submissions received (both in support and opposing the fishing provisions under Issue 13C), were in general supportive of the intention of the provisions, particularly the recognition in

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<sup>82</sup> Section 32: Chapter 13 – Appropriate activities, recreation, fishing, residential, shipping, Lake Grassmere Pg 28 and 29

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the MEP of the value of recreational and commercial fishing within the Marlborough Sounds and the recognition of the concern within the community over the sustainability of fishing resources<sup>83</sup>.

356. Submissions<sup>84</sup> were received in opposition to the Fisheries section of Chapter 13 in its proposed form. The primary concerns raised by submitters were;

- The lack of jurisdiction for Council to control the sustainable management of fisheries;
- The Council's role in the Sustainable and Integrated Management of Fisheries;
- The narrow scope of the issue, that the provisions only relate to the Marlborough Sounds. Submitters stated that fisheries cannot be discretely confined, and instead should apply to the whole of the Marlborough Coastal Marine Area<sup>85</sup>;
- The role of iwi as kaitiaki<sup>86</sup>;
- The Council 's support and advocacy role<sup>87</sup>.

357. The submission by **Hugh Shields (757.001)** opposes the Fishing section of the MEP in its entirety as, "No Regional Council in New Zealand has jurisdiction over coastal fisheries and the Marlborough District Council not an exception to this rule. The fisheries of Aotearoa are managed by the Ministry of Primary Industries (MPI), under the Fisheries Act, in collaboration with stakeholder groups, Commercial, Recreational and Customary fishers".

### **Assessment**

358. I recognise and appreciate the Council's position seeking to acknowledge the importance of the recreational and commercial fisheries within the Marlborough Sound within the MEP, and recognise the community's concern over depletion of fisheries stocks within the Marlborough Sounds, given the importance of this resource to the community and economy of the area. The Council's intention is also supported by submitters.

359. I share submitters' concern over the Council's ability to achieve the sustainable management of fisheries through the provisions of the MEP.

360. Turning to the notified fishing provisions, I consider it appropriate to first look at the purpose of the issues, objectives and policies within the Plan. In writing resource management issues, the 'Tips for writing issues' in the Quality Planning Website<sup>88</sup> states that the expression of issues within a Plan should 'identify an environmental problem (or opportunity for improvement) that the local authority can address under the RMA' (emphasis added). In addition, the quality planning website also says "to avoid issues that are outside the scope of the RMA". The

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<sup>83</sup> Clova Bay Residents Association 152.024, Te Runanga O Ngati Kuia 501.054, Forest and Bird 715.001, Keepuru and Central Sounds Residents Association Incorporated 868.050

<sup>84</sup> Burkhart Fisheries Limited and Lanfar Holdings (4) Limited 610.003, The Fishing Industry Submitters 710.030, Legacy Fishing Limited 906.003 and PauaMAC 7 Industry Association Incorporated 1038.003

<sup>85</sup> The Fishing Industry Submitters 710.031

<sup>86</sup> Te Atiawa o Te Waka-a-Mauī 1186.070

<sup>87</sup> PauaMAC 7 Industry Association Incorporated 1038.005, Fishing Limited 906.033

<sup>88</sup> Quality Planning Website [www.qualityplanning.org.nz](http://www.qualityplanning.org.nz)

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objectives and policies should flow on from the issue. The objectives to provide a statement of what is to be achieved through the resolution of an issue, and the policies describing a course of action to achieve or implement the objective.

361. Proposed Issue 13C is '*The depletion of wild fisheries in the sounds*', with Objective 13.4 being '*The sustainable management of fisheries in the Marlborough Sounds*'. My primary concern is that neither the issue nor the objective are matters that the Council can address and achieve on its own under the RMA, for the reasons that I identify below.
362. The Council's functions as a Unitary authority are outlined within s30 and s31 of the Act. In particular, s30 outlines the Council's function as '*the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the natural and physical resources of the region*' in order to achieve the purpose of the Act. It is noted that integrated management includes both RMA and non-RMA methods.
363. Within s30 of the RMA, the functions of a Regional Council include to 'control the use of land for the purposes of the maintenance and enhancement of water quality and quantity and ecosystems in coastal water'<sup>89</sup>. In addition, s30(d), with respect to the coastal marine area, requires the Council to control "land and associated natural and physical resources"<sup>90</sup> and to control particular land use and activities<sup>91</sup> in order to give effect to the purpose of the Act.
364. The purpose of the Act (s5 of the RMA) is to achieve sustainable management, which means managing the use and development of natural and physical resources, whilst sustaining the resource to meet the needs of future generations, safeguarding the life-support capacity of those resources, and avoiding, remedying or mitigating adverse effects on the environment.
365. The function of the Council in relation to fisheries is therefore the management of the environment (being the water and ecosystems) where the fish live, and the management of activities within the coastal marine area that may affect that environment. The fishery resource itself is managed by other non-RMA methods. Both work together in integrated management to manage the fish and the environment in which the fish live.
366. The Fisheries Act 1996 governs fisheries management within New Zealand. The purpose of the Act is '*to provide for the utilisation of fisheries resources while ensuring sustainability*'<sup>92</sup>. As outlined in the s32 report '...under the Fisheries Act 1996, the Ministry of Primary Industries has the primary role in managing, conserving and enhancing fisheries, there are significant restrictions on the Council's ability to control outcomes for fisheries management.'<sup>93</sup>
367. For the reasons above, I consider that notified Issue 13C is not a resource management issue that the Council can control on its own as it falls outside the functions of the Council under the RMA. As a result, notified Objective 13.4 cannot be achieved solely by the Council, as it must rely on mechanisms outside of the RMA. It is therefore considered that Issue 13C and

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<sup>89</sup>RMA s30(c)(ii), (iii) and (iii)a)

<sup>90</sup> RMA s30(d)(i)

<sup>91</sup> RMA s30(ii)-(vii)

<sup>92</sup> Fisheries Act 1996 Section 8

<sup>93</sup> Section 32: Chapter 13 – Appropriate activities, recreation, fishing, residential, shipping, Lake Grassmere pg 29

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Objective 13.4 are not appropriate for inclusion within the Plan, as the control of the issue falls outside the scope and functions of the Council.

368. The Council's role in the integrated management of fisheries, indicated by submitters<sup>94</sup> and the s32 report, is through the management of the environment and control over activities that may cause adverse effects on the marine environment, that in turn will help contribute to maintaining and enhancing wild fisheries.
369. The plan already includes provisions to manage this environment in a comprehensive manner. As stated within the s32 report, policies in Chapter 15 (Water, Air and Soil), Chapter 8 (Indigenous Biodiversity) and the control of activities within the Coastal Environment in the remainder of Chapter 13 will allow the Council to perform this role.
370. During my analysis of submissions, I have considered how a 'Fishing' section of Chapter 13 could be drafted to more accurately reflect the role and functions of Council under the RMA, primarily in order to give specific recognition to fishing within the Plan. The problem I have found, however, is that any provisions would effectively repeat other areas of the MEP that are notified, and would not add any provisions of significance, or provisions that could be used for decision making.
371. In turning to Policies 13.4.1 and 13.4.2 as notified, the s32 test in the Act is whether the provisions are the most appropriate way to achieve the objectives. The s32 officers report acknowledges that "the policies cannot be said to be efficient or effective in achieving the objective". Therefore after analysing the Act, the provisions proposed cannot meet the s32 test for inclusion within the MEP.
372. As stated above I recognise the Council's desire to demonstrate in the plan its intention and commitment to achieving a sustainable fisheries resource. However, I consider that there needs to be a clear understanding of the role that the Council can play in the integrated management of fisheries. As outlined above, the Council's role is to manage the environment in which the fish live, which is already managed through the other notified provisions of the MEP. For these reasons, I do not consider that there is a need to include provisions specifically relating to Fishing within the MEP, and recommend that the Fishing section of Chapter 13 is deleted in its entirety.

### Scope of Framework

373. Submitters in opposition to the Fishing management framework as proposed by the MEP are concerned about narrowing the scope of the Policy framework to be only within the Marlborough Sounds, given that the management of fisheries occurs on a much broader scale under other management frameworks (i.e. The Fisheries Act and Quota systems).
374. I agree with submitters that the scope of the framework is limiting if it is restricted to the Marlborough Sounds. Given that the scope of the resource (fish in the sea) and the resource

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<sup>94</sup> The Fishing Industry Submitters 710.030

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management Issue (the depletion of fisheries resource) both have no clear boundary limits (fish are free to swim outside the confines of the Marlborough Sounds), the scope of any management framework relating to fisheries resources should reflect the coastal marine area covered by the Council's functions – the Marlborough coastal marine area. This discussion becomes redundant, however, in the context of my recommendations above.

### Council's Support and Advocacy Role

375. The primary aims of the policies within the MEP as notified are for the Council to support and advocate for the intensive management of fisheries in the Marlborough Sounds, and to support community groups working towards a sustainable fishery within the Marlborough Sounds.
376. Policy 13.1.4 (explanation) identifies the desire for a more intensive management regime within the Marlborough Sounds, but until such a regime is identified and interested parties are given the opportunity to express view on it, I recommend that it is not advocated for within the MEP.
377. The Ministry for the Environment has information on their website<sup>95</sup> proposing the establishment of a recreational fishing park within the Marlborough Sounds. I understand at this time there is no further information as to where this proposal is at, and therefore I recommend that it is not considered during the development of provisions of the MEP.
378. Policy 13.4.2 gives support to community groups working towards sustainable fisheries. I agree with submitters that that this approach is an inequitable application of support for one interested group. It does not specify that support will be offered to other groups, such as industry and other groups who are also working towards sustainable fisheries.
379. The notified policies provide recognition of the Council's intention to support and advocate for sustainable fisheries management within the Marlborough Coastal Marine Area, and particularly in the Marlborough Sounds. I consider that the Council can carry out this support and advocacy role without it being recognised within the MEP, especially because it will be achieved through non-RMA methods. The Council could include such a role within their Long Term Plans.

### ***Recommendation***

380. For the reasons outlined above I recommend that the 'Fishing' section in Chapter 13 is deleted in its entirety<sup>96</sup>.

## **The impact of activities within the Coastal Environment on fisheries resources**

381. A number of submissions received on the provisions in Chapter 13 The Use of The Coastal Environment raised concerns that the MEP fails to provide consideration of fisheries resources, fisheries habitat, and fishing activity (including commercial fishing). The submissions seek that

<sup>95</sup> <https://www.mfe.govt.nz/publications/marine/new-marine-protected-areas-act-consultation-document/section-5recreational>

<sup>96</sup> Harry Shields (757.001)

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these matters are provided for as a value of the coastal marine area, and are provided for as matters of consideration in policies that outline criteria for assessing the appropriateness of an activity within the coastal marine area.

382. These concerns have been raised by Fishing Industry Groups, namely Legacy Fishing Limited (906); Burkhart Fisheries Ltd and Lanfar Holdings Ltd (610); PauaMAC7 Industry Association Incorporated (1038); and The Fishing Industry Submitters (710).
383. The submissions relate to the following provisions that identify values and manage activities within the coastal marine area:
- Identified Values within the Coastal Marine Area (Policy 13.1.1 and 13.2.1.)
  - Boat Moorings within MMA's (Policy 13.8.2)
  - All Structures within the Coastal Marine Area (Policy 13.10.5)
  - Reclamation and Drainage (Policy 13.11.4)
  - Shipping (namely Ship Generated Waves and Ship Speed) (Policy 13.6.3)
  - Alteration of Extension to Port or Marina Infrastructure (Policy 13.8.7)
384. In responding to these submissions, I consider it essential to refer back to the role of the Council in the sustainable management of fisheries as outlined within paragraphs 364 - 374 above.
385. The Council is unable to control the fishery resource itself, but in its functions is required to control the environment, which is made up of other natural and physical resources that support the fisheries resource, namely water quality and quantity, ecosystems and natural character.
386. Chapter 13, directs that all activities within the Coastal Environment that require resource consent are considered and assessed against the management framework established under Objective 13.1 and 13.2. The management framework describes the values of the coastal environment in Marlborough that should be recognised and provided for when determining whether activities are appropriate.
387. In Policy 13.1.2, these values (relevant to fishing) are recognised as
- (a) The characteristics and qualities that contribute to natural character, natural features and the landscape of an area;*
  - (b) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga;*
  - (e) the dynamic, complex and independent nature of coastal ecosystems;*
  - (f) the high level of water quality generally experienced in Marlborough's coastal waters.*

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388. All of them are values that the Council has control over under its RMA functions, and all of them contribute to the sustainable management of fisheries resources by providing a suitable environment for fish to live.
389. Assessing an activity against the values of the coastal environment therefore gives consideration to fisheries resources, to the extent that the Council can under the RMA.
390. These Objectives and Policies apply to all applications for resource consent within the Coastal Environment. There is therefore no need to include specific reference to fishing resources or fishing activity within the values policies of the MEP, or within policies relevant to specific activities as raised by the submitters.
391. For these reasons I recommend that the submissions are rejected.
392. Furthermore, there have been submissions<sup>97</sup> that request that MPI is listed as an affected party to all resource consent applications within the coastal marine area to enable an assessment of any potential impacts on fisheries resources. In line with my assessment above I do not consider that this is necessary. The Council's role is to manage the environment in which fish live, not the fisheries resource itself. The Council through its role in the assessment of the resource consent application, will ensure that there are no adverse effects on the environment in which the fish live from the activity.
393. I note that an application for a marine farm requires an Undue Adverse Effects (UAE test), which involves MPI assessing the effects of the proposed marine farm on recreational, customary or commercial fishing. This is however, only undertaken once a resource consent has been granted by the relevant authority. I believe that this existing process reflects the direction that I have taken in this report, that it is not the Council's role to assess the impact of activities on fishing activities, but to manage the environment in which the fish live. I therefore recommend that these submissions are rejected.
394. The submitters<sup>98</sup> also request that through Methods within the MEP, that the Council liaise with MPI in identifying and mapping habitats of significance for fisheries management. It is appreciated that areas that are important habitats for fisheries resources could be identified through the MEP as Ecologically Significant Marine Sites. The process for this to occur is outlined within this report at paragraph 146. I consider that this process, and the opportunity for both MPI and submitters to participate in this process sufficient to address the concerns of submitters. I therefore recommend that the submission is rejected.

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<sup>97</sup> The Fishing Industry Submitters (710.023, 024, 025, 026, 027)

<sup>98</sup> The Fishing Industry Submitters (710.023, 024, 025, 026, 027)



# Matter 5 - Anchoring and Moorings

## Anchoring

395. Anchoring is addressed in Volume 1 Chapter 13 – The use of the Coastal Environment, and specifically in the following provisions:

- Issue 13E
- Objectives 13.6 and 13.7
- Policies 13.7.1-2
- and Rules 16.1.3 and 16.3.2 contained within Volume 2 – Chapter 16

### **Submissions**

396. All the submissions received in relation to anchoring were supportive of the provisions as proposed, or supportive in part.

397. Submitters raised requests for amendments to the proposed provisions, seeking that anchoring is excluded within Ecologically Significant Marine Sites and future marine protected areas<sup>99</sup>, and that barges used for aquaculture activities are explicitly excluded from the restriction for long-term or permanent anchorage<sup>100</sup>.

398. In addition, one submission objected to permitted activity rule 16.3.2.1 in relation to anchoring performance criteria for permitted activities, namely time limitations on anchoring<sup>101</sup>.

399. It is noted that within those submissions seeking the exclusion of anchoring within Ecologically Significant Marine Sites, the submitters did support the approach taken by MDC of limiting long term anchorage and recognising that long term anchorage can potentially give rise to adverse effects on the surrounding environment and users of the coastal environment.

400. I will address each of these matters raised by submitters within the assessment below.

### **Assessment**

#### Ecologically Significant Marine Sites

401. The submissions that seek anchoring to be excluded within the within Ecologically Significant Marine Sites and future marine protected areas do not provide a reason why exclusion of the sites is requested, however I have assumed that the submitters are concerned about potential adverse effects on these sites as a result of anchoring (both long and short term).

402. I have been referred by Dr Steve Ulrich of MDC, to the Davidson Environmental Ltd Report 'Reassessment of selected significant marine sites (2014-2015) and evaluation of protection

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<sup>99</sup> Sea Sheppard New Zealand 1146.030,031,032, Guardians of the Sounds 752.030,031,032; Pinder Family Trust 578.030,031,032, Te Runanga o Ngai Kuia 501.056

<sup>100</sup> Aquaculture New Zealand 401.140, Marine Farming Association 426.145.

<sup>101</sup> Jones, Annabel Farquar and Goldie, Neville Charles Clarke, Richard Spencer 443.003

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requirements for significant sites with benthic values', prepared for the MDC and DoC dated November 2015.

403. This report identifies that "direct physical disturbance has been assessed as one of the main causes of damage to marine benthic biological values (MacDiarmid et al., 2012), and that significant sites that support benthic biological values are vulnerable to physical damage from activities such as dredging, trawling and anchoring (emphasis added)"<sup>102</sup>.
404. Within the report, eleven sites already identified as Ecologically Significant Marine Sites have been identified as supporting benthic biological values ranked as Category A, requiring the highest level of protection. This categorisation represents sites that are intolerant to most forms of benthic physical seabed disturbance, including anchoring.
405. The report identified that "these significant sites support communities dominated by fragile species such as rhodoliths, upright tubeworms mounds, and brittle bryozoan mounds. These sites are the best of their kind in their respective biogeographic areas in Marlborough. Presently none of these sites are protected from benthic physical disturbance and all are considered to be sites that would degrade over time without a high level of protection."<sup>103</sup> Table 5 of the report identifies the Ecologically Significant Marine Sites that are recommended for Category A protection.
406. The protection of significant habitats is strongly signalled in higher order statutory documents and in other provisions of the PMEP. Section 6(c) of the RMA identifies the protection of significant habitats of indigenous fauna as a matter of national importance that must be recognised and provided for.
407. Policy 11 of the NZCPS requires the protection of indigenous biodiversity within the Coastal Environment and requires the avoidance of significant adverse effects, or to avoid, remedy or mitigate adverse effects on indigenous ecosystems and habitats that are only found in the coastal environment and are partially vulnerable to modification.<sup>104</sup>
408. Objective 8.1 of the proposed MEP seeks to protect Marlborough's remaining indigenous biodiversity in the coastal environment, and that this is achieved by identifying Ecologically Significant Marine Sites<sup>105</sup> and ensuring that the effects in the coastal environment are managed by avoiding (emphasis added) adverse effects on areas mapped as Ecologically Significant Marine Sites.
409. Issue 13A and Objective 13.1.1(c) of the proposed MEP requires avoidance of adverse effects from activities in areas identified as having significant marine diversity value.
410. As outlined above, there is clear direction within the Proposed MEP and higher order documents (NZCPS and RMA) to avoid adverse effects on these identified sites. The Davidson

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<sup>102</sup> Davidson Environmental Ltd Report 'Reassessment of selected significant marine sites (2014-2015) and evaluation of protection requirements for significant sites with benthic values' November 2015 Pg 12

<sup>103</sup> Ibid Pg15

<sup>104</sup> NZCPS Policy 11(b)(iii)

<sup>105</sup> Through Policy 8.1.1. and 8.1.2

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report identifies that anchoring does cause adverse effects on the biodiversity within these areas, and the policy framework directs that avoidance of activities that will cause adverse effects on these areas is required.

411. In relation to future marine protected areas, it follows that until any areas are identified as requiring Category A protection (which includes from anchoring), then anchoring shall be permitted to occur until it is demonstrated that a need to restrict anchoring is required.
412. A review of the 'Cruise Guide to the Marlborough Sounds' and a cross check of the 11 areas identified as Category A Ecologically Significant Marine Sites has revealed that only 3 of the 11 sites<sup>106</sup> have anchoring within them: Catherine Cove is identified as having a 'skeptical anchoring', and Coppermine Bay contains two anchoring sites, but no information is provided on the nature of the anchoring.
413. In light of this information it is considered that the exclusion of these Category A Ecologically Significant Marine Sites would not have an adverse effect on recreational uses and anchoring within the Marlborough Sounds.
414. The costs associated with implementing the proposed amendments would include administration, education, and enforcement and monitoring of anchoring restrictions within these areas. There may be additional costs for MDC and the Harbourmaster for enforcement and signage (if required and feasible) to direct people that these areas should not be used for anchoring. There may also be associated costs for the Cruise Guide to the Marlborough Sounds to update information about prohibited areas for anchoring, and a loss of opportunity for anchoring for recreational users.
415. The benefits to the proposed amendments are that the provisions will ensure that activities, that are known to have adverse effects on these Category A Ecologically Significant Marine Sites are avoided. This is the only method available to achieve Objective 8.1 of the plan, and to give effect to the higher order documents of the NZCPS and the RMA.
416. The proposed amendments to the provisions are considered to be the most effective and efficient way of achieving the objectives of the MEP and the purpose of the Act.
417. The proposed recommendations are also in line within the recommendations contained within Mr Andrew MacLennan's S42A Report for Topic 6: Indigenous Biodiversity<sup>107</sup>
418. The effect of this recommended change in terms of activity status would mean that anchoring within a Category A Ecologically Significant Marine site would move from a Permitted Activity to a Prohibited Activity.
419. In addition, there is the potential that resource consent applications could be made for permanent moorings within Ecologically Significant Marine Sites, however this would be subject to assessment against the management framework for Moorings within Chapter 13<sup>108</sup>.

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<sup>106</sup> Ecologically Significant Marine Site 2.13 Catherine Cove and 1.5 Coopermine Bay.

<sup>107</sup> S42A Report on Submission and further submissions Topic 6: Indigenous Biodiversity, Pg 76

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420. The submission from Jones, Annabel Farquar and Goldie, Neville Charles Clarke, Richard Spencer (443.003), proposes changes to Rule 16.3.2.1. There was no evidence presented by the submission that states the reasons why the time period for anchoring should be reduced from 60 to 10 days, and why 24 hour manning of boats at anchor is required. Of course, further evidence may come forward at the hearing, which I can consider at that time.

### Barges for Aquaculture

421. Submissions and further submissions<sup>109</sup> seek that barges for aquaculture uses are specifically excluded from the anchoring provisions under Policy 13.7.1 and 13.7.2. Rule 16.3.2 excludes any ship from anchoring for a period of more than 60 days (or 90 days within 12 months) without resource consent.
422. Within the MEP 'ship' is defined under s2 of the Maritime Transport Act 1994, and that definition expressly includes 'barges'.
423. Long term anchoring (of any kind) may have adverse effects on the environment. In cases where anchoring is occurring for a period of more than 60 days, an assessment of the potential effects should take place. In my opinion this could be done as a resource consent application required under Rule 16.6.1, or as part of any associated resource consent for the Aquaculture activity.
424. The only time that I can envisage that requiring resource consents for anchoring longer than 60 days may be a problem is if aquaculture activities are provided for within the MEP as controlled activities. This could result in the barge (if anchored for a period longer than 60 days) requiring consent as a Discretionary Activity under Rule 16.6.1, and the aquaculture activity only requiring consent as a controlled activity.
425. The Aquaculture provisions of the MEP are still under review, and at this time it is impossible to anticipate the contents of the Aquaculture section. For this reason, I consider that at this time there are no compelling reasons to exclude barges associated within aquaculture activities from the anchoring provisions. When the Aquaculture provisions have been notified, there will be an opportunity for these submitters to make separate submissions on the provisions for the anchorage of barges associated with aquaculture. Alternatively, the subsequent plan variation could address this issue. The Schedule 1 process will allow any amendment to be made to the remainder of the MEP to reflect the Aquaculture provisions.

### **Recommendations**

426. For the reasons outlined above I recommend that the proposed Issue 13E remain as notified.
427. For the reasons I above I recommend that proposed Policy 13.6.1 is retained as notified:
428. For the reasons I above I recommend that proposed Objective 13.7 is amended to read:

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<sup>108</sup> Permanent moorings in Ecologically Significant Marine Sites were requested by submitters Pinder Family Trust (578.030), Guardians of the Sounds (752.030) and Sea Shepherd New Zealand (1146.030) in relation to Issue 13E.

<sup>109</sup> Further Submissions from Red Sky Trust 425 and Te Atiawa 342 in support of Aquaculture New Zealand 401.229

**Objective 13.7 – The coastal marine area is able to be used for anchoring boats in appropriate locations<sup>110</sup>.**

*Boat anchoring has long been considered an appropriate use within the coastal marine area, particularly for recreational use but also for commercial boats. The objective seeks to enable use of the coastal marine area for this purpose.*

429. For the reasons I above I recommend that proposed Policy 13.7.1 is amended to read:

**Policy 13.7.1 – Enable use of the coastal marine area for temporary anchoring by boats, excluding Category A Ecologically Significant Marine Sites listed in Appendix XX<sup>111</sup>.**

*Boats of all sizes are reliant on being able to anchor for recreational purposes, during storms or in the event of damage or gear failure. An enabling approach to providing for this on a temporary basis has been provided, subject to meeting standards.*

*Category A Ecologically Significant Marine Sites have been identified as significant sites that support marine communities dominated by fragile species that are intolerable to most forms of benthic physical seabed disturbance, including anchoring. For this reason any anchoring within these areas should be restricted*<sup>112</sup>.

430. I recommend that the proposed Policy 13.7.2 remain as notified.

431. For the reasons above I recommend that Overlay Maps - Ecologically Significant Marine Sites Overlays are amended to provide identification of Category A sites, namely those identified within Figure 1 of the Davidson Report, and as identified within Appendix 2 – Protection Categories of the s42A Report for Topic 6 – Indigenous Biodiversity prepared by Mr Andrew MacLennan.

432. I also recommend that a new Appendix as recommended within the s42A Report for Topic 6 – Indigenous Biodiversity prepared by Mr Andrew MacLennan<sup>113</sup>, is included within the MEP to identify Category A and B – Ecologically Significant Marine Sites.

433. I also recommend that a new standard is applied to Permitted Activity Rule 16.3.2 to read;

**16.3.2 Anchoring of a ship.**

**16.3.2.2 The ship must not be anchored within a Category A Ecologically Significant Marine Site listed in Appendix XX**<sup>114</sup>

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<sup>110</sup> Ibid

<sup>111</sup> Ibid

<sup>112</sup> Ibid

<sup>113</sup> S42A Report on Submission and further submissions Topic 6: Indigenous Biodiversity, Pg 76

<sup>114</sup> Sea Sheppard New Zealand 1146.030,031,032, Guardians of the Sounds 752.030,031,032; Pinder Family Trust 578.030,031,032, Te Runanga o Ngai Kuia 501.056

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434. I recommend that a Prohibited activity rule is included within Volume 2 – Chapter 16 Coastal Environment Zone as proposed within the s42A Report for Topic 6 – Indigenous Biodiversity prepared by Mr Andrew MacLennan, to read;

### 16.7 Prohibited Activities

16.7.X Anchoring within any Category A Ecologically Significant Marine Site listed within Appendix XX<sup>115</sup>

## Moorings

435. Boat Moorings are controlled within the MEP through the following provisions;

- Issue 13E
- Objectives 13.8 and 13.9
- Policies 13.8.1 – 13.9.8
- Methods 13.M.12 – 13.M.16 within Volume 1 Chapter 13
- Rules 16.1.4 and 16.3.3, 16.5.1, 16.6.2 within Volume 2 – Chapter 16

436. The MEP separates moorings into two categories: those within a Moorings Management Area (MMA) and those outside of MMA's.

### Submissions

437. The majority of submissions received in relation to Moorings within an MMA were supportive of the provisions as proposed.

438. The main submission topics in relation to Moorings address those moorings located outside MMA's, namely;

- That moorings will be limited by “regarding as appropriate one mooring per Computer Register or Computer Unit Title Register to enhance access to private property”<sup>116</sup>; which fail to consider effects of this on Multiple-owned Maori Land<sup>117</sup>;
- The impact of moorings on anchorages<sup>118</sup>
- Mooring design<sup>119</sup>
- Temporary Structures or equipment for scientific monitoring purposes<sup>120</sup>

<sup>115</sup> Sea Sheppard New Zealand 1146.030,031,032, Guardians of the Sounds 752.030,031,032; Pinder Family Trust 578.030,031,032, Te Runanga o Ngai Kuia 501.056

<sup>116</sup> Thomas Noton Te Awaiti Ltd 203.002, Jono Wilson 231.001, Kevin and Mary Daly 432.003, Michael William Rosson 950.003, East Bays Conservation Society 100.024, Taurewa Lodge Trust 1185.007, Hori (George) Turi Elkington 1315.001

<sup>117</sup> Thomas Noton Te Awaiti Ltd 203.002, Hori (George) Turi Elkington 1315.001

<sup>118</sup> Ernest and Catherine Hernshaw (686.003, 005)

<sup>119</sup> Te Atiawa o Te Waka-a-Maui (1186.074) and Eric Jorgensen 404.030

<sup>120</sup> Aquaculture NZ (401.230, 231, 232, 233), Marine Farmers Association (426.229), Jonathan Gardner (79.001) and Eric Jorgensen (404.049), Sanford Limited (1140.051), Cawthron Institute (613.001) and Port Marlborough (FS 977)

**Assessment**

439. As outlined within the s32 report, during MEP development consultation concern was raised about the number of moorings within the coastal marine area<sup>121</sup>, indicating that there was a resource management issue that needed addressing. The MEP allows for moorings outside of MMA's as a Discretionary Activity, with policy direction to identify what may be considered an appropriate location<sup>122</sup> and limitations<sup>123</sup>.
440. The primary issue raised by submitters was the restriction on the number of moorings per Computer Register or Computer Unit Title Register within Policy 13.9.2. The general feeling from submissions was that this is overly restrictive and did not allow for consideration of individual circumstances, for example people owning more than one boat.
441. It is also apparent from these submissions that there is unease regarding the shift in the management framework for moorings from the MSRMP, which did not contain directive management, to the PMEP which is seen as being very directive. The s32 report does however note that while this is the case, the Council has considerable experience in managing moorings under the MSRMP within the more general approach, and that in light of this experience the Council considers the proposed provisions to be feasible<sup>124</sup> and will provide more guidance to plan users as to the appropriateness of mooring activities<sup>125</sup>.
442. It is important to note that Policy 13.9.2 clearly states that this policy is 'subject to the matters in Policy 13.9.1', and therefore Policy 13.9.2 is required to be read subject to the matters contained within Policy 13.9.1.
443. Policy 13.9.2 states that the installation of one mooring per Computer Register or Computer Unit Title Register is considered appropriate. It does not state that it excludes the consideration of more moorings, and I consider that this would be open to consideration through the required Discretionary resource consent process.
444. Given that Policy 13.9.2 is subject to Policy 3.9.1, consideration could be given to what the mooring is proposed to be used for (Policy 13.9.1(b)) and the operation of any existing activity or activity for which resource consent has been granted (Policy 13.9.1(c)(vii)), which may address concerns raised by a number of submitters.
445. I believe the intention of MDC to provide for a detailed management framework for moorings is required (in light of feedback from community consultation) and provides increased guidance to plan users and decision makers on what will be considered appropriate when determining a resource consent application for a new mooring.
446. While applications for moorings that are not associated with a certificate of title, or are additional, may be considered to be contrary to Policy 13.9.2(a), there is scope within this

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<sup>121</sup> S32, Chapter 13 – Coastal Structures and Seabed Disturbance, Pg 10

<sup>122</sup> MEP Volume 1, Chapter 13 Policy 13.9.1

<sup>123</sup> MEP Volume 1, Chapter 13 Policy 13.9.2

<sup>124</sup> S32, Chapter 13 – Coastal Structures and Seabed Disturbance, Pg 13

<sup>125</sup> S32, Chapter 13 – Coastal Structures and Seabed Disturbance, Pg 13

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policy and associated framework to deal with them. However, it is noted that Policy 13.9.2 gives a clear direction that one mooring per computer register is what is anticipated by the Council.

447. I am supportive of the Council's approach to place limitations on the installation of moorings. It moves away from a first in first served basis, and considers a range of factors that help to determine if a mooring is appropriate. The application of factors will be dependent on individual circumstances and locations.
448. I agree with the s32 report where it notes there are alternative options available where a private mooring is not considered appropriate under this policy<sup>126</sup>, which includes facilities such as Marinas, moorings within MMAs, Boating Club (collective) moorings, and temporary anchoring.
449. As outlined above, while the management framework is a strong 'shift' from the status quo, there appears to be sound justification for the need to provide policy guidance for plan users and decision makers.
450. When considering appropriate locations for moorings outside MMA's, Policy 13.9.1 provides for consideration of the cultural and customary values of the site, including access for customary purposes. I recognise the iwi concerns that the policy does not clearly give direct consideration to multiple-owned Māori Land. For these reasons, I recommend that a clear reference to multiple-owned Māori land is appropriate and that Policy 13.9.1(vii) is amended accordingly.

### Effects of Moorings on Anchorages

451. The submission of Ernest and Catherine Hernshaw (686.003, 005) raises concerns regarding the impact of moorings on the ability of boats to safely anchor within bays. In particular, the increase in the number of mooring spaces may result in reduced space for anchorage in some areas.
452. I concur with this submission. I recommend that there should be consideration within the Policy, to assess the impacts of proposed moorings on areas of safe anchorage. As discussed within other sections of this report, the Cruising guide provides information on anchorages within the Marlborough Sounds, and local communities and recreational boaters would be aware of areas that are used for safe anchorage. I do not consider that it would be cumbersome on applicants or the Council to (a) obtain information on whether there are known safe anchorages within the location of the application and (b) whether any proposed mooring would be likely to impact the ability for this location to be used for anchoring.
453. In light of the above, I recommend that the submission of Ernest and Catherine Hernshaw (686.003, 005) is accepted and amendments are made to Policy 13.9.1 to give consideration of safe boat anchorages.

### Mooring Design

454. One submission by Te Atiawa<sup>127</sup> seeks that Policy 13.9.1 requires consideration of alternative mooring designs to reduce seabed disturbance.

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<sup>126</sup> S32, Chapter 13 – Coastal Structures and Seabed Disturbance, Pg 17



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455. I have been referred by Dr Steve Ulrich from MDC to a report by the Cawthron Institute titled '*Effects of Moorings on Different Types of Marine Habitat*'<sup>128</sup>. This report was recently presented to Council at the MDC Environment Committee meeting on the 1<sup>st</sup> February 2018.
456. The Cawthron Institute has undertaken a review of the environmental effects of moorings on different seabed habitats. They identified that conventional block and chain moorings are only suitable over areas of mud or sand with no specific ecological, conservation or traditional value. This is because of the damage done by the heavy ground chain scouring a 360° arc over the seabed. Cawthron have identified that Marlborough's coastal waters host a number of different types of habitat, some of which are sensitive to disturbance by ground chains. In these areas, they have suggested that more environmentally friendly types of moorings should replace conventional moorings, which will enable sensitive habitats within the swing circle to recover and biodiversity to be maintained<sup>129</sup>.
457. In light of the Cawthron report, I consider there is sufficient evidence that the conventional types of swing moorings could have adverse effects on seabed habitats, and that in some areas (to be assessed on a case by case basis) alternative mooring designs should be considered.
458. I do not consider that an additional criteria, to consider mooring design, is suitable to be contained within Policy 13.9.1 given that this policy relates to determining the appropriateness of a location for a mooring. I therefore recommend the inclusion of a new Policy 13.9.X, to consider whether alternative mooring designs are appropriate to reduce the ecological effects of sea bed disturbance. This additional policy is outlined within my recommendations contained at paragraph 465.
459. Mr Jorgensen (404.030) submits that that the displacement (weight) of the boat should also be a consideration within Policy 13.9.4 as this will dictate the likelihood that a mooring may drag in extreme winds.
460. I note that in my research for this report, swing moorings guidance by other Regional Councils in New Zealand, namely Environment Canterbury's 'Swing Mooring specification for the Canterbury Region' and 'Northland Regional Council Mooring Guidelines' use criteria based on vessel length and displacement to determine mooring types. I consider that displacement would be a factor for consideration in designing a mooring, and therefore a resource consent should limit boat size and weight as part of a resource consent process. I therefore recommend that Policy 13.9.4 is amended to include displacement (weight).

### **Recommendations**

461. For the reasons I above, I recommend that proposed Policy 13.9.1 is amended to read:

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<sup>127</sup> Te Atiawa o Te Waka-a-Maui (1186.074)

<sup>128</sup> Cawthron, Report No. 3098, "Effects of Moorings on different types of Marine Habitat", 05th January 2018

<sup>129</sup> Summary of above Report prepared by Dr Steve Ulrich for MDC Environment Committee meeting on the 1<sup>st</sup> February 2018

Policy 13.9.1 – The following matters are to be assessed in determining the appropriateness of the location for a mooring:

- a) **whether a Moorings Management Area with available space exists in the vicinity of the proposed mooring site;**
- b) **what the proposed mooring is to be used for;**
- c) **the potential for the mooring and any moored boat to adversely affect:**
- d) **the navigation and safety of other boats, including any other moored boat;**
- e) **existing submarine cables, other utilities or infrastructure;**
- f) **recreational use of the coastal marine area, including the short-term anchorage of other recreational boats;**
- g) **amenity values of adjoining residents or land with high recreational value;**
- h) **the open space character of the coastal marine area;**
- i) **the natural character, landscape or ecological values of the site, including on adjoining land and offshore islands;**
- j) **the cultural and customary values of the site, including access for customary purposes, [and Māori land held in multiple ownership](#)<sup>130</sup>;**
- k) **the operation of any existing activity or any activity that has been granted resource consent;**
- l) **[safe boat anchorages](#)<sup>131</sup>;**
- m) **what practicable land-based storage options and/or alternative access points are available for the boat; and**
- n) **whether there will be a cumulative impact on the values of the coastal environment from a mooring in the proposed location; and**

*This policy identifies the matters to be considered through the resource consent process in determining the appropriateness of a particular site for a mooring and its intended purpose, for example to provide access to an applicant's land, for moorings for commercial activities, for customary or collective use. The purpose of the mooring is an important consideration in determining the appropriateness of the proposal, as particular conditions may be relevant for one purpose but not another. The broad nature of the other matters identified reflects the wide range of activities and values of Marlborough's coastal environment.*

462. I recommend that proposed Policy 13.9.4 is amended to read:

*Policy 13.9.4 – The use of a mooring shall be limited to the size [and displacement](#)<sup>132</sup> of boat for which consent was granted.*

*The size [and displacement \(weight\)](#) of a boat will dictate the size of anchor, swing circle and other specifications required for a swing mooring. The swing circle is an important factor in ensuring the safety of other moored boats. It is therefore important to ensure that a mooring is*

<sup>130</sup> Thomas Noton Te Awaiti Ltd 203.002, Hori (George) Turi Elkington 1315.001)

<sup>131</sup> Ernest and Catherine Hernshaw (686.003, 005)

<sup>132</sup> Eric Jorgensen 404.030

not used for any boat larger than that considered through the resource consent process. If a swing mooring is intended to be used for a boat larger than originally provided for, this needs to be reassessed through the resource consent process.

463. I recommend that a new Policy 13.9.9 is included within Chapter 13 to read;

**Policy 13.9.9 – In determining an application for a new mooring consideration should be given to the appropriateness of the mooring type and design proposed in order to reduce the ecological effects of seabed disturbance caused by the mooring.**<sup>133</sup>

There is evidence to demonstrate that that conventional block and chain moorings can cause damage to the sea bed as a result of heavy ground chain scoring that can occur within the 360° arc around the mooring block. The placement of Moorings can therefore have adverse effects on seabed habitats surrounding the mooring, in particular those areas within ecological, conservation, or traditional values that are sensitive to disturbance. This policy that consideration is given to other types of mooring types and design that would not disturb the seabed surrounding the mooring.

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<sup>133</sup> Te Atiawa o Te Waka-a-Maui 1186.074

## Matter 6 - Shipping

464. Shipping activities in the coastal environment are specifically dealt with in Volume 1 Chapter 13, and Rules in Volume 2 Chapter 16. An assessment has been undertaken of the submissions on the following provisions:

- Issue 13H, Issue 13I
- Objective 13.14, Objective 13.15, Objective 13.16
- Policies 13.14.1 -13.14.3, Policies 13.15.1-13.15.3, Policies 13.16.1-13.16.6
- Method 13.M.19 - 23
- Rules 16.1.1, Rule 16.1.3.16.3.1, Rule 16.4.1 and Rule 16.4.2

465. As with the other sections of Chapter 13, the majority of the submissions received supported the provisions as notified.

466. The submissions that supported in part or opposed the provisions raised the following topic matters;

- Amendments to Shipping Policies, namely;
  - Onerous wording of Policy 13.14.1<sup>134</sup>
  - Reference to 'existing' ports and marinas in Policy 13.14.3<sup>135</sup>
  - Navigational Safety<sup>136</sup>
- The extent of the National Transportation Route (NTR), namely;
  - An extension to include the 'Northern Entrance' to Queen Charlotte Sound through the outer sound<sup>137</sup>.
  - A reduction to the NTR so that it does not apply to side bays in the sounds and is limited to the main channels<sup>138</sup>.
- *MV Aretere* Grandparenting Rule<sup>139</sup>
- Data Storage on ships<sup>140</sup>
- Naval Activities<sup>141</sup>

467. I will address each of these topics below.

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<sup>134</sup> Aquaculture NZ (401.149), Marine Farming Association (426.154) and Port Clifford Limited (1041.050) Port of Marlborough (433.060)

<sup>135</sup> Port Marlborough (433.062) and Nelson Forests Limited (990.220)

<sup>136</sup> Kenepuru and Central Sounds Residents Association (868.072), Yachting New Zealand (503.002), Aquaculture New Zealand (401.153) and Marine Farming Associations (426.158)

<sup>137</sup> Straight Shipping (790.002) and KiwiRail Holdings (873.049)

<sup>138</sup> Aquaculture NZ (401.150), Marine Farming Association (426.155)

<sup>139</sup> KiwiRail (873.162)

<sup>140</sup> Straight Shipping (790.005, 006,007)

<sup>141</sup> NZDF (992.067)

## Amendment to Shipping Policies

### Assessment

#### Onerous wording of Policy 13.14.1

468. I concur with submitters that the wording '*to enable water transportation activities where these do not have an adverse effect on the environment*' (emphasis added) may be interpreted to allow only for water transport activities where adverse effects are avoided, even minor adverse effects.
469. It is clear within the s32 that this is not the intention of the policy, to be overly onerous on these activities. The s32 report states that '*it is important that provision is made to enable the activities identified in Objective 13.14 to continue where there is little adverse impact on the coastal environment*' (emphasis added). The s32 report also states that '*Given the extensive range of uses and the significance of these activities to economic, social and cultural wellbeing, it is important that an enabling approach is taken to providing for these activities*'.
470. The s32 report states that the MSRMP currently uses this management approach and its continuance is justified to ensure that water transportation activities do not have adverse effects on the values and uses of the coastal environment. It is noted however that the relevant Policy 1.3 within Chapter 19 – Water Transportation of the MSPMP states 'avoid, remedy or mitigate the adverse effects of water transport activities on the natural and physical resources of the sounds'.
471. My interpretation of the operative and proposed provisions, and the intention of the policy as outlined within the s32, is that notified Policy 13.4.1 has been unintentionally worded so that it is more prohibitive on water transportation activities than was intended.
472. On the other hand, I believe that the submissions by Aquaculture NZ (401.149), Marine Farming Association (426.154) and Port Clifford Limited (1041.050) which request a threshold of 'significant' adverse effect, are too high of a threshold. This is because effects, such as those that are minor or more than minor, but not significant, should be required to be mitigated or remedied to achieve better outcomes for the environment.

### Recommendation

473. For these reasons, I recommend that Policy 13.14.1 should be amended to read;

Policy 13.14.1 – Enable water transportation activities where these [activities avoid significant adverse effects<sup>142</sup>](#), and [remedy or mitigate other<sup>143</sup>](#) ~~do not have an~~ adverse effects on the coastal environment.

#### Navigational Safety

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<sup>142</sup> Aquaculture NZ (401.149), Marine Farming Association (426.154) and Port Clifford Limited (1041.050)

<sup>143</sup> PMNZ (433.060)

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474. Policy 13.15.2 requires adverse effects on water transportation to be avoided, remedied or mitigated. As outlined within the s32 it is the intention of the criteria in Policy 13.15.2 to provide a framework to be used by decision makers for resource consent applications to assess the effects arising from activities or structures in the coastal marine area on water transportation<sup>144</sup>.
475. The consideration of the impacts of any proposed activity and or structure on water transportation will ultimately be assessed by the Council's Harbourmaster.
476. As the submissions received seek amendments to the each of criteria contained within Policy 13.15.2, my assessment will address each of the criteria in turn.

### Policy 13.15.2(a)

477. Policy 13.15.2(a) seeks to avoid, remedy or mitigate adverse effects on water transport by "maintaining safe, clear navigation routes around headland unimpeded by structures".
478. Mr Luke Grogan, MDC Harbourmaster, stated in communication<sup>145</sup> that it was his view that "maintaining safe, clear navigation routes around headlands, unimpeded by structures is fundamentally important to the safe navigation of vessels in the Marlborough Sounds".
479. In Mr Grogan's communication, he recognised the importance of headlands to navigation, stating that "Headlands are often important reference points to coastal and inshore, commercial and recreational navigators. It is common to steer directly toward a headland when on a voyage and once within its proximity, alter course and make way toward the next headland (or relevant feature of the landscape). This is sometimes termed 'point to point' navigation and is common in the Sounds environment. Headlands are commonly associated with areas where traffic is converging from multiple directions, and in such circumstances the headland itself may obscure the line of sight between converging vessels. Where a vessel passes a headland, this is often the closest to land the vessel will pass. (Consider for example, the track of a vessel transiting between two bays separated by a headland). Headlands can provide a point of reference in inclement weather and an opportunity for shelter from rough seas and strong winds".
480. Mr Grogan expressed the need to keep the consideration of navigation around a headland as a separate criteria (as opposed to combining it within (b) as submitted by Yachting New Zealand<sup>146</sup>) to clearly acknowledge the significance of headlands to navigation.
481. For the above reasons, I recommended that criteria (a) of Policy 13.15.2 remain as notified.

### Policy 13.15.2(b)

482. Policy 13.15.2(b) seeks to avoid, remedy or mitigate adverse effects on water transport by "avoiding activities and/or locating structures within significant shipping routes (including shipping routes from the Port of Picton, Havelock Harbour and from Waikawa Marina)".

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<sup>144</sup> Section 32 – Appropriate activities, recreation, fishing, shipping, Lake Grassmere, Pg 40

<sup>145</sup> Email from Luke Grogan to Debbie Donaldson dated 29 November 2017

<sup>146</sup> Yachting New Zealand (503.002)

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483. The submission from Aquaculture New Zealand (401.153) and Marine Farming Associations (426.158) states that the use of the term 'commercial shipping routes' within (b) is not supported by a clear definition.
484. Yachting NZ (503.002) and Kenepuru and Central Sounds Residents Association (868.072) submit that the policy should refer to 'recognised navigational routes' (both commercial and recreational), or 'regular navigation paths' and recognised anchorages or refuge and or port and harbor approaches.
485. It is my understanding, supported by the Harbourmaster, that assessments for resource consent for activities and structures within the coastal marine area extend beyond consideration of the impacts solely on commercial shipping routes, and would extend to consideration of recognised navigational routes as outlined in the submission by Yachting New Zealand. Mr Grogan advised that he would certainly oppose an application within a recognised route, given that any structure or activity within these routes would have an adverse effect on navigation safety.
486. Mr Grogan agrees within the submission of Yachting New Zealand regarding the need for a definition of recognised navigational route for the purposes of interpretation of this policy. Mr Grogan considers that the definition of 'recognised navigational route' provided within the Maritime New Zealand Guidelines for Aquaculture Management Areas and Marine Farms 2005<sup>147</sup> provides an appropriate definition.
487. The definition contained within this document is "Recognised navigational route" is a safe sea passage and commonly used by vessels navigating within that area. The recognised navigational route may be one used by commercial vessels to & from ports, and may also include pleasure craft routes which are normally used to navigate between popular destinations".
488. Mr Grogan also considers that the policy should recognise the need to avoid activities or structures within approaches to any port, marina or harbours.
489. The clear intent of the policy is the avoidance of structures or activities areas that may pose a risk to navigation, and thus have an adverse effect on water transport. It is considered that a revised policy, which will open the consideration of the policy beyond commercial shipping routes to extend to 'recognised navigational routes', is effective in achieving objective 13.15, that being the efficient and safe use of the coastal marine area for water transportation.
490. It is not considered that the proposed amendment to this part of the policy will result in increased costs to users of the coastal marine area. It will ensure the safety of all users of the coastal marine area, and it is unlikely to result in limiting areas of the coastal marine areas for activities or structures, given that as Mr Grogan has expressed, when assessing resource

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<sup>147</sup> Maritime New Zealand Guidelines for Aquaculture Management Areas and Marine Farms 2005, Appendix 1, Pg 16 available at <https://www.maritimenz.govt.nz/commercial/ports-and-harbours/documents/Guideline-for-Aquaculture-Management-areas-and-Marine-Farms.pdf>

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consent applications a consideration of the location within or nearby recognized navigational routes is already undertaken. The revised policy is considered to be both effective and efficient.

491. For the reasons outlined above I recommended that (b) of Policy 13.15.2 is amended as outlined within the recommendation contained within paragraph 503 of this report, and that a new definition of 'recognised navigation route' is provided within Chapter 25 of the MEP.

### Policy 13.15.2(c)

492. Policy 13.15.2(c) seeks to avoid, remedy or mitigate adverse effects on water transport by "avoiding emissions of light that could affect the safe navigation of ships".
493. Aquaculture New Zealand (401.153) and Marine Farming Associations (426.158) seek amendments to the criteria within the policy to reduce the obligation of (c) from 'avoid' to 'appropriately manage'.
494. I disagree with the above submissions. I consider that there is a health and safety obligation to ensure that lighting will not, in any circumstance, have an adverse effect on safe navigation of ships. I therefore consider that 'avoidance' is an appropriate standard. This is a conclusion supported by Mr Grogan within correspondence.
495. For the reason outlined above I recommend that (c) of Policy 13.5.2 remain as notified.

### Policy 13.15.2(d)

496. Policy 13.15.2(d) seeks to avoid, remedy or mitigate adverse effects on water transport by "ensuring the safety of navigation and use of or access to mooring sites, boat sheds and ramps, jetties, wharves, ports, marinas, water ski access lanes and areas that provide shelter from adverse weather are not affected by activities or structures in the coastal marine area".
497. Yachting NZ seek that recognised anchorages of refuge and Mooring Management Areas, are included within the list included within (d). The submission also seeks the removal of the phrase '*and areas that provide shelter form adverse weather*'.
498. Aquaculture New Zealand (401.153) and Marine Farming Associations (426.158) seek amendments to include the word 'significantly' before affected.
499. In response to the submission by Yachting NZ, I consider that to provide consistency across the plan, the inclusion of Moorings Management Areas (MMAs) within this policy is appropriate. Within other sections of the MEP moorings and MMAs are referenced separately, and consider that it is appropriate to do so within this Policy also. I believe the intention of the Policy in referring to moorings was also to apply to MMAs. I do not consider that this amendment will have any implications on the application of the Policy, but merely aids interpretation.
500. There are two elements to the policy: (a) the need to avoid effects of activities or structures on the safety and navigation of use of named structures and activities, and (b) recognising areas that provide for shelter from adverse weather, or as described within the submission of Yachting NZ, as anchorages of refuge.



501. Mr Grogan has expressed concern over the wording of the phrase 'provide shelter from adverse weather' as this could be interpreted to mean any area close to land, depending on the wind direction at the time or other weather conditions. However, he recognises that the intent of the policy is appropriate. He also raises concern that the standard 'are not affected' may be too high in these circumstances given the lee of any land mass can provide shelter in adverse weather. Mr Grogan indicates that support of the submission by Aquaculture NZ for the inclusion of the word 'significantly' before affected would overcome the application of this policy being applied too onerously.
502. In light of the above, I consider that the policy as it stands is complex and contains a number of elements that could be separated out for ease of interpretation, and it would be reflective of the submissions received. For the reasons outlined above I recommended that (d) of Policy 13.15.2 is amended as outlined within paragraph 503 below.

### **Recommendation**

503. For the reasons outlined above I recommended that Policy 13.15.2 is amended as follows;

**Policy 13.15.2 – Avoid, remedy or mitigate adverse effects on water transportation by:**

- (a) maintaining safe, clear navigation routes around headlands, unimpeded by structures;**
- (a) avoiding activities and/or locating structures within recognised navigational routes<sup>148</sup> and significant commercial shipping routes (including shipping routes from the Port of Picton, Havelock Harbour and from Waikawa Marina);**
- (b) avoiding emissions of light that could affect the safe navigation of ships;**
- (c) ensuring the safety of navigation and use of or access to mooring sites (including Mooring Management Areas)<sup>149</sup>, boat sheds and ramps, jetties, wharves, ports, marinas, water ski access lanes and areas that provide shelter from adverse weather are not affected by activities or structures in the coastal marine area; and**
- (d) ensuring that areas that provide shelter from adverse weather are not significantly<sup>150</sup> affected by activities or structures within the coastal marine area; and**
- (e) requiring structures to be maintained or marked in a way that protects the safety of water transportation activities.**

*These criteria provide a framework to assist decision makers in assessing the effects on water transportation arising through resource consent applications for activities or structures in the coastal marine area.*

<sup>148</sup> Kenepuru and Central Sounds Residents Association (868.072) and Yachting New Zealand (503.002)

<sup>149</sup> Yachting New Zealand (503.002)

<sup>150</sup> Aquaculture New Zealand (401.153) and Marine Farming Associations (426.158)

504. For the reasons outlined above I recommended that a new definition is included within Volume 2 - Chapter 25 as follows;

*Recognised navigational route is a safe sea passage and commonly used by vessels navigating within that area. The recognised navigational route may be one used by commercial vessels to & from ports, and may also include pleasure craft routes which are normally used to navigate between popular destinations*

## Extent of National Transportation Route

505. The National Transportation Route (NTR) is mapped on the NTR Overlay Map within the MEP and is a transportation route through Tory Channel and Queen Charlotte Sound that is of national significance for shipping activity.

506. The extent of National Transportation Route Map as outlined with the NTR Overlay within Volume 4 of the MEP is shown in Figure 1 below.

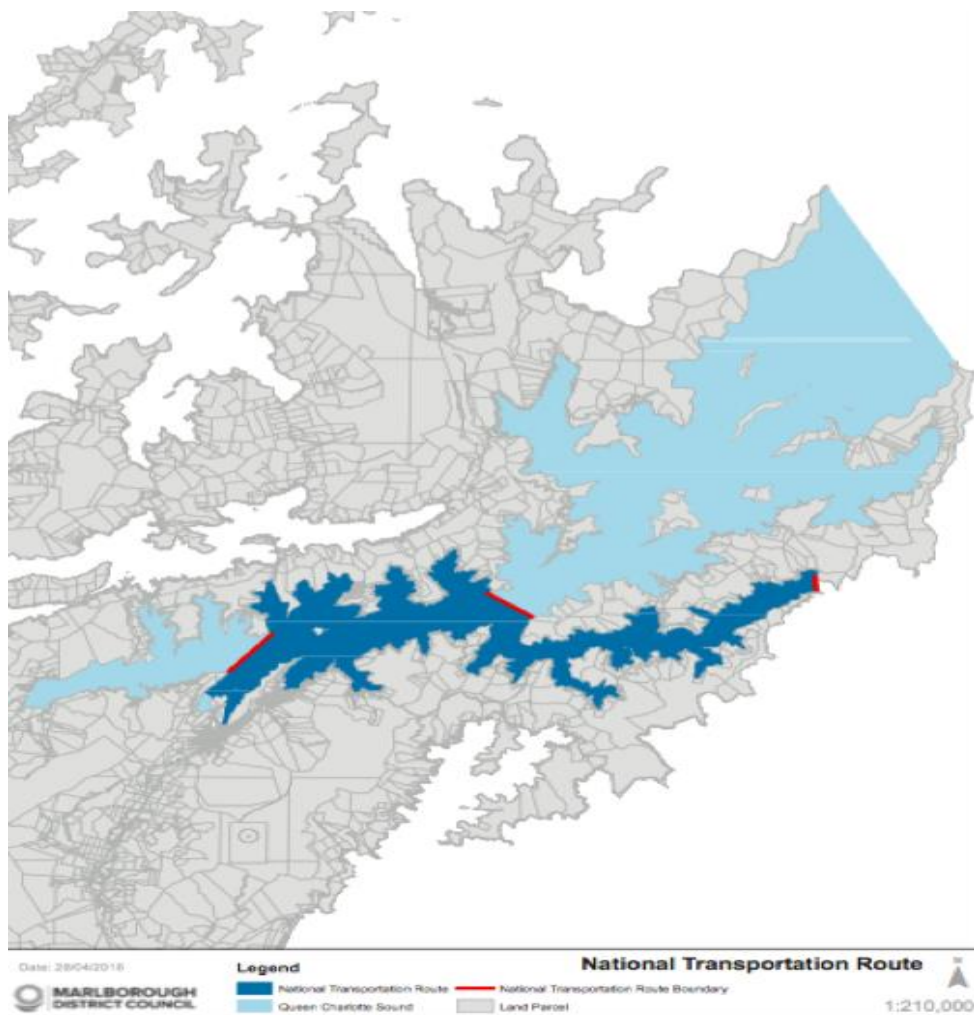


Figure 1: MEP National Transportation Route Overlay

**Submissions**

507. There were three submission topics received in relation to the NTR, all relating to the extent of the NTR Overlay within the proposed MEP, namely to;
- reduce the NTR to apply only to main channels of the sound and exclude side bays
  - an extension of the NTR to include the 'Northern Entrance' to Queen Charlotte Sound
  - extend the NTR overlay to include the Port Zone at Clifford Bay<sup>151</sup>
508. Seven submitters<sup>152</sup> requested that the National Transportation Route should not apply to side bays in the sounds and should be limited to the main channels of Tory Channel and Queen Charlotte Sound. The submissions also request that the NTR overlay within Volume 4 of the notified MEP is amended to reflect the request.
509. None of the submissions requesting the removal of the side bays for the NTR provided a reason as to why the change is sought.
510. It is noted that submissions on this topic have been received primarily from marine farming and fishing industry representatives. For this reason, I assume that the submissions are based on the impact that the NTR overlay has on their operations (but acknowledge that this assumption maybe incorrect).
511. Straight Shipping (790.008) and KiwiRail Holdings (873.193) submit that the National Transportation route should extend to include the "Northern Entrance" to Queen Charlotte Sound through the outer sound, and if this change is accepted it should be reflected in the explanation to Policy 13.4.2, and would also require amendment to the NTR overlay in Volume 4. This submission is supported by further submissions 970 and 992 from Port of Marlborough.
512. Ship speed within Queen Charlotte Sound is limited to 15 knots in the proposed MEP and under the MSRMP. If these submissions were accepted, it would allow large and fast ships to seek resource consent to travel at speeds faster than 15 knots through the Queen Charlotte Sound northern entrance as a controlled activity.
513. The extension to the NTR Overlay sought by KiwiRail and Straight Shipping is shown below in the map supplied with the Straight Shipping submission;

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<sup>151</sup> Port Clifford (1041.054)

<sup>152</sup> Aquaculture NZ (401.150, 291), Marine Farming Association (426.155, 282), Salvador Delgado Oro Laprida (218.005), Apex Marine Farm Limited (544.021), Lloyd Sampson David (890.021), New Zealand King Salmon Company (997.003) and Sanford Limited (1140.101)

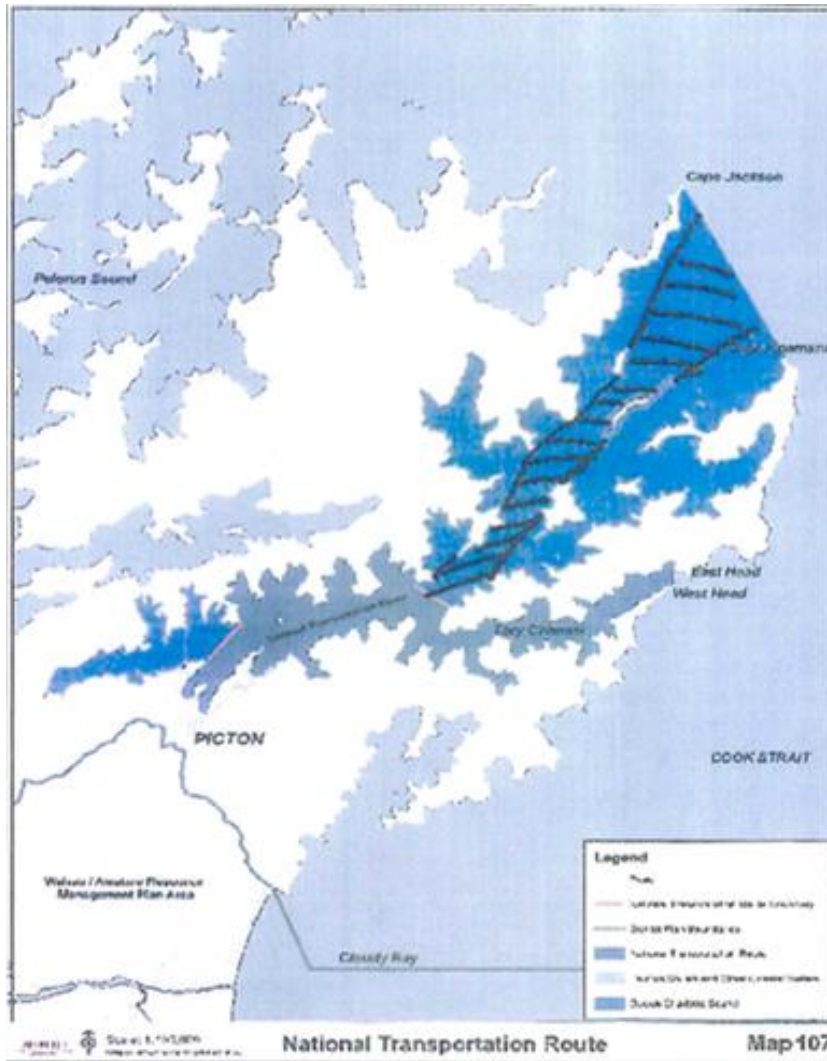


Figure 2: Strait Shipping's proposed extension to the NTR Overlay

514. Straight shipping and KiwiRail outline the reasons for their submission to be;

- i. Use of Alternative Route: In severe South Easterly conditions or weather conditions which make the Tory Channel Entrance unsafe, the Marlborough District Council Harbour Master sometimes closes Tory Channel.
- ii. When ships suffer certain propulsion equipment malfunctions, the 'Northern Entrance' is used as an alternative as it has a lower navigational risk profile than Tory Channel.
- iii. Up to approximately 120 (for Straight Shipping) and 288 (for KiwiRail) sailing transits a year are made for the sole purpose of training and keeping crews familiar with the alternative entrance (crews need to be familiar with the alternative route so it can be safely used when required). Maintaining currency with Maritime NZ regulations (Rule 90 in particular), and the ability to sail through Tory Channel without a pilot, masters on vessels are required to frequently sail the alternative route. The training transits outnumber the weather and defects transits.

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- iv. They submit that the alternative route via the 'Northern Entrance' adds approximately 11 Nautical Miles to a Picton to Wellington return trip. When travelling through the alternative route, the journey on the Aratere is 55 minutes longer, going from 3 hours 10 minutes to 4 hours 5 minutes. In order to maintain time tables, ships need to travel faster than the currently allowable 15 knots through the 'Northern Entrance'. The requirement through the MEP to reduce speed through the Queen Charlotte Sound accounts for an additional sailing time of over 15 minutes each way.
- v. Generally, the outer Queen Charlotte Sound is much wider than the Inner Sound and Tory Channel, recreational traffic density is much lower and tidal currents are mild. Combined with relatively few ferry transits through the Outer Queen Charlotte Sound, the effects from ship's wake can be expected to have less impact here.

### **Assessment**

515. As outlined within the S32 Report, in the MEP the Council identifies the 'National Transportation Route' on overlay maps and applies rules to ships operating along it. This management approach has been used previously in the MSRMP and proven to be beneficial for environmental, social and cultural reasons. The development of the management framework of the National Transportation Route and rules were imposed to manage the wake effects of large and fast ships. This framework was introduced through Variation 3 to the MSRMP and has been operative since 2008. The provisions were ultimately considered and decided upon by the Environment Court<sup>153</sup>.
516. Variation 3 was introduced to the MSRMP to control large and fast ships in Queen Charlotte Sound and Tory Channel. The changes were the result of adverse effects of the significant wakes fast ferries within the enclosed waters of the sounds both on the environment, and conflict with other coastal users<sup>154</sup>.
517. The adverse effects on the environment cases by these fast ferries included impact in kiamoana, erosion of beaches and sites of cultural significance, water clarity and marine ecology<sup>155</sup>.
518. The proposed MEP seeks through Objective 13.4. to ensure that the use of the coastal marine area as part of the Marlborough's overall transport network continues, and through Policy 13.14.1 seeks to allow for water transportation to occur where it does not have an adverse effects on the environment. Policy 13.14.2 recognises the strategic importance of the Marlborough Sounds as a Transport route for inter-island shipping and that this is recognised as the NTR.
519. Objective 13.15.1 seeks to achieve efficient and safe use of the coastal marine area for water transportation. Policies 13.15.1 and 13.15.2 focus on the avoidance of adverse effects on navigational safety.

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<sup>153</sup> Section 32: Chapter 13 – Appropriate activities, recreation, fishing, residential, shipping, Lake Grassmere Pg 38

<sup>154</sup> Marlborough District Council, PMSRMP Shipping Activity, Variation 3 S32 Report, Dated 1st February 2002, Pg 5

<sup>155</sup> Ibid pg9

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520. The management framework created by proposed MEP in relation to the NTR means that the use of surface water by a ship within the NTR and Queen Charlotte Sound is a permitted activity under Rule 16.1.1. This activity is subject to the standards outlined in Rule 16.3.1 that restrict the speed of 'high speed ships' and 'ships exceeding 500 gross registered tonnes' within the NTR and Queen Charlotte Sound to 15 knots.
521. The use of surface water by a ship not otherwise controlled by 16.1.1 is also a permitted activity under 16.1.2 (therefore applying to the remainder of the coastal marine zone), and is not subject to any performance standards.
522. High speed ships or ships that exceed 500 registered tonnes exceeding 15 knots within the NTR require resource consent as a Controlled activity under Rule 16.4.1 and 16.4.2, subject to the standards and terms outlined within these rules.
523. Rule 16.4.2 applies a controlled activity status to high speed or large ships travelling over 15 knots within the NTR is standards within the Policy are met. Of particular relevance is 16.4.2.1 that states that 'The ship must not propagate waves that exceed the Wash Rule identified in Appendix 12 in the NTR. It is noted that only 1 submission was received relating to Appendix 12, in support of the Appendix as notified<sup>156</sup>.
524. The Wave Wash rule was introduced through Variation 3 to ensure that the effects on the environment and the health and safety of costal users were reduced from the wave wash caused by large and high spend ships. The wave wash rule restricts the wave energy, and requires measurement at approved measurement sites, listed within Appendix 12.
525. The MSRMP applies a prohibited activity status to 'The use of surface water within that part of Queen Charlotte Sound not on the NTR by High speed ships, or ships that exceed 500 gross registered tonnes, which are travelling at ships speeds greater than 15 knots'<sup>157</sup>. The submission of Queen Charlotte Sounds Residents Association (504.87) notes that this prohibited activity rule has not been carried through to the MSP. A high-speed or large ship exceeding 15 knots in other parts of Queen Charlotte Sound not in the NTR would therefore be a Discretionary Activity under the MEP. I have not seen any information within the s32 Report to indicate why the Prohibited Activity rule has not been included within the MEP, particularly given that the s32 states that the management framework has been taken from the MSRMP.
526. In light of the direction of the Objective and polices of the MEP I consider the submissions require assessment of the following;
- Effects on the Environment
  - Effects on Navigation
  - Effects on activities, or ability to undertake activities within these areas.

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<sup>156</sup> KiwiRail 873.202

<sup>157</sup> MSRMP Rule 35.6

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The following section will examine each of these assessment criteria relevant to the submission topic.

### Reduction in the extent NTR to exclude side bays.

527. As outlined above the above the Wave Wash rule in Appendix 12 was introduced through Variation 3 to ensure that the effects on the environment and the health and safety of costal users from the wave wash caused by large and high spend ships was reduced. The wave wash rule restricts the wave energy, and requires measurement at approved measurement sites, listed within Appendix 12.
528. Appendix 12 – Determination of Wave Energy specifies that the Wave Wash Rule must not be exceeded within the NTR for a controlled activity status. Of note within Appendix 12 is paragraph 2.1.1 under 'Technical Information to be provided with the applications for consent' that states, '*Accepted and properly calibrated computational models, physical models, analytical or empirical analysis allowing for the specific characteristics of the ship concerned and all the relevant operating conditions, navigation tracks, physical effects and conditions within the National Transportation Route*' (my emphasis added)
529. From the above, I conclude that the extent of the NTR as mapped within the NTR Overlay is to reflect the area in which the Wave Wash Rule identified in Appendix 12 must not be exceed<sup>158</sup>, as this reflects the area of the sounds where the wave wash may create adverse effects.
530. As the waves generated from ships within Tory Channel and Queen Charlotte Sounds will extend into side bays, given the narrow nature of these channels, the extent of the NTR has been mapped to reflect this.
531. I consider that the application of the NTR within the side bays, demonstrates the area which is likely to be subject to wave wash from high speeds and large ships, and shows the area where the application of Appendix 12 is applicable. For these reasons I consider that the extent of the NTR as notified recognises the extent of the area where environmental (and other effects) may occur from this activity, and is required in order for environmental effects to be adequately measured, monitored and controlled.
532. In regard to effects of the application of the NTR to the side bays of the sounds on other activities within the coastal marine area, at this time I do not see how the removal of the NTR to the side bays within Tory Channel would indeed benefit any of the submitters. The restrictions placed on the activities within the NTR primarily relates to high speed and large ships and controls on speeds. These types of ships to my knowledge are not used by marine farming and fishing industry, and even if they did it would merely place a restriction on speed of vessels.
533. Policy 13.15.1 of the proposed MEP does require that activities and/or structures along the NTR shall be sited and/or undertaken in such a way that adverse effects on the safety and

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<sup>158</sup> I have reviewed the application and Decision of Variation 3 to the MSRMP at <https://www.marlborough.govt.nz/your-council/resource-management-policy-and-plans/marlborough-sounds-resource-management-plan/marlborough-sounds-plan-changes/variation-3-shipping-activity-in-the-marlborough-sounds>, and cannot find any further information within any of these documents to support, or discredit my conclusion.

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efficiency of ships transiting the NTR are avoided. Submissions were received from Aquaculture NZ (401.152), Marine Farming Association (426.157) in objection to Policy 13.15, submitting that the threshold for adverse effects to be avoided within this Policy is too high, and requests that the Policy is amended to read ‘...of ships transiting this route are appropriately managed’.

534. Policy 13.15.1 does not prohibit the placement of structures or activities being undertaken within the NTR, but highlights that they will be subject to safety and efficiency considerations.
535. I consider that Policy 13.15.1 provides a balance between Objective 13.14 and Objective 13.15, in recognising the significance of the NTR to Marlborough, and ensuring the efficient and safe use of the coastal marine area for water transportation. As outlined in the s32 report, given ‘the significance of the NTR for economic and social wellbeing of Marlborough and NZ, it is important that the safety and efficiency of ships using this part of the coastal marine area is not adversely affected<sup>159</sup>. Given that the aim of Policy 13.15.1 is to provide for safe and efficient operation, I consider a high threshold of avoidance is acceptable.
536. Given that the extent of the NTR is reflective of the application of Appendix 12 – Wave Wash Rule, and the fact that I cannot anticipate any instances where the application of the NTR will adversely affect other activities within the NTR or raise navigational safety concerns, I consider that the application of the NTR to the side bays is necessary to demonstrate the potential area affected by the use of high speed and large ships, and associated potential adverse effects within the NTR.
537. For these reasons, I recommend that the submissions requesting the removal of the NTR within the side bays of the sounds are rejected.

### Expansion of the NTR to include the ‘Northern Entrance’ to Queen Charlotte Sound

538. As outlined above, the Wave Wash Rule restricts wave energy and requires measurement at approved measurement sites within the NTR, listed within Appendix 12. As the NTR only applies within Tory Channel and limited parts of Queen Charlotte Sound, there are no approved measuring sites located within the area of the ‘northern entrance’ to Queen Charlotte Sound.
539. I have obtained information from Dr Steve Ulrich at MDC, who has advised that Queen Charlotte Sounds contains limited environmental sampling and monitoring sites. The sites within the outer Queen Charlotte Sound are reference or control sites where the response to shoreline morphology and biology along the existing NTR area are compared. Some of these reference sites coincide within the proposed NTR expansion as proposed by submitters<sup>160</sup>.
540. Dr Ulrich considers that there is an insufficient number of sample sites within outer Queen Charlotte Sound to adequately pick up change to shoreline profiles from increased ferry speed and traffic through the northern entrance. Dr Ulrich is concerned that given the lack of

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<sup>159</sup> S32 page 40

<sup>160</sup> Site 21 Blumine, Site 11 Long Island, Site 3 Double Cove, Site 12 Clarke Point and Site 20 Patterns Passage.



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information on ferry speeds and trips and ferry speed exceedances, it is difficult at this time to understand if the ships have caused an issue and what the effects are at different locations.

541. Dr Ulrich considers that wave propagation modelling would be useful through the proposed NTR from the northern entrance to Dieffenbach Point to identify the sites at risk of higher impact, using the *MV Aratere* at 19 knots as an example.
542. If the extension of the NTR was considered appropriate there would be a need to make amendments to Appendix 12 – Wave Wash Rule to identify appropriate approved measurement sites. I do not have the expertise to determine if the Wave Wash Rule will also be equally applicable to Outer Queen Charlotte Sound. If the hearing panel is interested in extending the NTR into Outer Queen Charlotte Sound, I would recommend that expert advice is sought on this.
543. In terms of effects of the submission on navigation, Mr Luke Grogan, MDC Harbourmaster, considered that there would be unlikely to be any significant Navigational safety issues arising from ferries/ships traveling at the same speed through the Northern Entrance of Queen Charlotte Sound, as their current resource consent conditions allow them to travel through the NTR.
544. Mr Grogan considered that allowing this change would make it less complicated for Ferry Masters to understand speed regulations and comply with the rules. Mr Grogan stated that until recently many ferry Masters were not aware that any resource consent to exceed 15 knots was limited to the NTR, and, hence, ferries have routinely been exceeding 15 knots through the northern entrance for some time.
545. I do not consider that the proposed extension to the NTR through the Northern route would have adverse effects on other activities.
546. As outlined by Mr Grogan, he does not consider that there would be significant adverse effects on navigational safety, and notes that speed exceedances through the Northern entrance have been occurring for some time. It is also noted that other ships will be limited to 15 knots within Queen Charlotte sound.
547. The application of a Wave Wash Rule (In Appendix 12 or similar) would ensure that wave wash is limited so that adverse effects on health and safety of users of the coastal marine area and the integrity of structures within the coastal marine area are avoided.
548. I am satisfied that from the information obtained from the Harbourmaster that the extension to the NTR through the northern entrance would have no adverse affects on navigational safety. I also consider that the management framework established by Variation 3 to the MSRMP is working well and achieving the outcomes sought by the plan, and would therefore be an appropriate management framework to apply to the northern entrance of Queen Charlotte Sound.

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549. I am satisfied that the use of the 'Northern Entrance' is sufficient by large ships to warrant extension of the NTR to the northern entrance.
550. My concern however lies in the lack of information on which to be able to assess the environmental effects of the extension of the NTR to the outer Queen Charlotte Sounds.
551. As suggested by Dr Ulrich, the preferred first step would be to obtain wave propagation modelling through the proposed NTR from the northern entrance to Dieffenbach Point, to identify sites of high impact. This information could then be assessed by relevant experts to identify if the Wave Wash Rule in Appendix 12 would apply a suitable control within the northern entrance, and identify monitoring sites and any expansion to monitoring required to be undertaken by the Council.
552. For these reasons, at this time I recommend that the submissions by Straight Shipping (790.008) and KiwiRail Holdings (873.193) are rejected and the extent of the NTR as shown on the Overlay Map in Volume 4 remains as notified.
553. In light of the above, I consider that in order to reflect the decision of the Environment Court<sup>161</sup>, I recommend that an additional Prohibited Activity is included within the Coastal Marine Zone<sup>162</sup>, identical to that that is contained within the current MSRMP, namely 'The use of surface water within that part of Queen Charlotte Sound not on the NTR by High speed ships, or ships that exceed 500 gross registered tonnes, which are travelling at ships speeds greater than 15 knots'. If the hearing panel is minded to extend the NTR to the northern entrance of Queen Charlotte sound, then this Prohibited activity would require removal.
554. If further information as outlined within Paragraph 541 is provided within the Hearing process, I would be welcome to revisiting this submission, if the Council and the submitters can work together in obtaining and assessing the relevant information in order to be satisfied that the extension would not result in adverse effects to the environment of the northern entrance of Queen Charlotte Sound.

### **Recommendation**

555. I recommend that the submissions by Straight Shipping (790.008) and KiwiRail Holdings (873.193) are rejected and the extent of the NTR as shown on the Overlay Map in Volume 4 remains as notified.

556. I recommend that an additional prohibited activity is included within Rule 16.7 to read;

16.7.X    *The use of surface water within that part of Queen Charlotte Sound not on the National Transportation Route by High speed ships, or ships that exceed 500 gross registered tonnes, which are travelling at ships speeds greater than 15 knots*<sup>163</sup>.

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<sup>161</sup> Tranz Rail New Zealand v Marlborough District Council W001/2008 [2008] NZEnvC 14 (22 January 2008)

<sup>162</sup> Queen Charlotte Sounds Residents Association (504.87)

<sup>163</sup> Queen Charlotte Sounds Residents Association (504.87)

Extension of the NTR to include the Port Zone at Clifford Bay

557. Port Clifford (1041.054) submit that the NTR overlay may be extended to include the Port Zone at Clifford Bay.
558. As outlined within the s32 report, the NTR and associated management framework was introduced through Variation 3 to the MSRMP and has been operative since 2008, following decision by the Environment Court<sup>164</sup>. The management framework specifies rules for ships within the NTR. This framework has been established in consideration of the unique sounds environment and the associated effects of shipping along the NTR. This area is significantly different from the area in which Port Clifford is located, with its entrance out to open seas, and therefore it is unlikely that the management framework of the NTR would be suitably reflective for this environment, i.e. limiting ship speeds within the NTR to reduce wave wash.

**Recommendation**

559. For these reasons, I recommend that the extent of the NTR remains as notified within the NTR Overlay Map in Volume 4 of the MEP.

## **MV Aratere Grandparenting Rule**

**Submission**

560. KiwiRail (873.162) submit that the *MV Aratere* operates under a different provision in the MSRMP than in the proposed MEP, and has a certificate of compliance to operate as a permitted activity at speeds up to 19 knots. That Certificate of Compliance (CoC) relates to a rule in the MSRMP. KiwiRail have been advised that it will be required to comply with the new provisions regardless of the existence of the CoC. If the grandparenting rule is confirmed as notified, this would require the *MV Aratere* to slow down to 15 knots or seek resource consent to breach that standard within 6 months of it becoming operative under section 20A(2) RMA.
561. KiwiRail are aware that this is a different opinion to that which appears to be expressed in the Council's section 32 report, which provides at p43 (emphasis added): *One important change in the MEP to the status quo relates to Rule 35.1.2.10.2 of the MSRMP, a grandfathering rule. This rule enabled three named ships (the Kent, Aratere and Arahura) to continue operating at speeds up to 20 knots without resource consent, subject to meeting standards while other ships were limited to 15 knots without resource consent. However, since the rules were first included in the MSRMP, two of the ships, the Kent and the Arahura, have been withdrawn from operation. Additionally, modifications made to the Aratere resulted in a certificate of compliance being requested by Kiwi Rail Limited under Section 139 of the RMA for operation of the ship for speeds not exceeding 19 knots. There is therefore no need to carry this grandfathering rule through into the MEP.*
562. KiwiRail submit that view seems to ignore the requirement that CoCs granted under s 139(11) RMA are granted subject to s 20A(2). This leaves KiwiRail uncertain as to what interpretation

<sup>164</sup> Marlborough District Council, PMSRMP Shipping Activity, Variation 3 S32 Report, Dated 1st February 2002

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the Council would take in the event the MSRMP rule under which the CoC is granted no longer exists. This poses a significant risk to the ferry operations as the additional time required would not enable three return sailings a day, as the current permitted standard does. The additional time that the ferry sailing will take is approximately 10 minutes, each way.

563. KiwiRail therefore seek that the grandfathering provision be included in the MEP as it relates to the *MV Aratere* only, and to 19 knots being consistent with the CoC held for the vessel.
564. KiwiRail seek Rule 16.3.1.1 is amended to read; 16.3.1.1. A high-speed ship must not exceed a ship speed of 15 knots, with the exception of the *MV Aratere* which must not exceed a ship speed of 19 knots.

### **Assessment**

565. It appears that the Council's interpretation of the RMA, in respect to the application *MV Aratere* CoC, is different to that of Kiwi Rail. The Council considers that a grandparenting rule within the MEP is not required as the CoC still applies, allowing the *MV Aratere* to continue to travel at a speed of 19 knots. KiwiRail however are concerned that the RMA will only allow the CoC to permit 19 knot speed of the *MV Aratere* until a resource consent application is submitted (within 6 months of the Plan becoming operative) and a decision has been made.
566. Turning to the relevant provisions of the RMA being s139A, a consent authority may issue a certificate that (a) describes an activity to which s10A or 20A applies, (b) states that the activity was an activity allowed by section 10A or 20A on the date that the authority issues the certificate, (c) specifies that character intensity and scale of the activity, and (d) describes the period for which the activity is allowed under s10A or 20A.
567. Section 10A applies to district plan rules in respect of the use of the surface of water in lakes and rivers and therefore does not apply in this circumstance.
568. Section 20A applies, when as the result of a rule within a proposed regional plan taking legal effect, an activity requires resource consent. Section 20A states that the activity may continue *until* the rule becomes operative if (a)(i) before the rule took effect the activity was permitted, (a)(ii) the activity was lawfully established, (b) effects are the same of similar, and (c) the activity has not been discontinued for more than 6 months. When a regional plan rule becomes operative in accordance within s20A(2) the activity may continue *after* the rule becomes operative, if (a)(i) before the rule took effect the activity was permitted, (a)(ii) the activity was lawfully established, (b) effects are the same or similar, and (c) the person carrying out the activity has applied for resource consent form the authority within 6 months of the rule becoming operative, and the application has not been decided or appeals have not been determined.
569. It is clear from the RMA, that there is no provision for a CoC to override a rule within a Regional Plan, once the plan has become operative, and resource consent is not subsequently obtained.

570. For this reason, I concur with the interpretation of KiwiRail and consider that a grandparenting rule is required within the MEP to provide for the ongoing operations of the *MV Aratere*.
571. I have not been provided any information by the Council, that would indicate that it would not be appropriate to continue to provide for the existing operations of the *MV Aratere* as a permitted activity as exists under the MSRMP.
572. For these reasons, I recommend that the submission of KiwiRail is accepted and Rule 16.3.1.1 is amended to read;

*Rule 16.3.1.1. A high speed ship must not exceed a ship speed of 15 knots, [with the exception of the MV Aratere which must not exceed a ship speed of 19 knots](#)<sup>165</sup>.*

## **Data Storage on Ships**

573. Rule 16.4.2 of the MEP provides for the 'Use of surface water within the NTR by a high speed ship, or a ship that exceeds 500 gross registered tonnes, which is travelling at a ship speed exceeding 15 knots, including any associated disturbance of the foreshore and seabed' as a Controlled Activity subject to the standards and terms contained within the Rule, and assessment against the matters over which the Council has reserved control.
574. There are number of standards within the Rule that outline when and how and what data must be collected and stored on a ship. The Rule also includes matters over which the Council has reserved control that relate to the nature and functions of data recording devices.

### **Submissions**

575. Strait Shipping (790.005, 006, 007) have made three submissions in opposition to the standards and terms, and matters of control included within Rule 16.4.2 in relation to data storage, namely;
- That Rule 16.4.2.9 is amended to require the storage of data for a period of 30 days rather than 6 months on board a ship. They consider that the timeframe of 6 months is onerous in terms of time and cost, and is beyond the timeframe required by the International Marine Organisation (IMO), and that the plan should not be more onerous than these requirements.
  - Strait Shipping oppose Rule 16.4.2.17 on the basis that they consider this clause unnecessary additional regulation and unduly onerous. They consider that this rule has the potential to result in consent conditions concerning calibration which are: not considered necessary; requiring calibration at a frequency greater than that under IMO regulations; and requiring certificates of calibration which are not commonly issued or required to be issued under IMO regulations

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<sup>165</sup> KiwiRail (873.162)

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- Strait Shipping also oppose 16.4.2.17, on the basis of the potential frequency of data needing to be supplied to the Council via a consent condition. They submit that AIS data is transmitted automatically, but in the case of the *Strait Feronia*, VDR data is stored electronically on board the ship. They are concerned that any need to supply non-AIS data at regular intervals to the Council may be problematic as months' worth of data would be very voluminous and it would be burdensome to extract and deliver it in terms of time and cost. They state that while they understand that the Council seeks to have access to data to determine compliance, it is considered that data other than AIS data which is transmitted automatically should only need to be provided on request with a suitable amount of notice and a restricted number of times per year. To address this matter, rather than amending 16.4.2.19, Strait Shipping propose that a new standard be added to enable Council to require such data provision only where it is not available via an AIS system, with 7 days' notice and a maximum of once per year. They consider that this is a reasonable expectation for ships operating in accordance with the Wash Rule.

### **Assessment**

576. In response to the submission by regarding the timeframe for data storage required by 16.4.2.9, Mr Luke Grogan<sup>166</sup>, Harbourmaster for MDC has referred me to the following excerpt from an IMO document on performance standards for shipborne voyage data recorders. (MSC 90/28/Add.1 Annex 21, page 2) that states;
- “The purpose of a voyage data recorder (VDR) is to maintain a store, in a secure and retrievable form, of information concerning the position, movement, physical status, command and control of a ship over the period leading up to and following an incident having an impact thereon. Information contained in a VDR should be made available to both the Administration and the shipowner. This information is for use during any subsequent safety investigation to identify the cause(s) of the incident.”
577. In light of the fact that the IMO regulations were designed specifically to assist with accident investigation, it should be contemplated that meeting IMO requirements may not meet the data needs of a local authority attempting to manage a local environmental issue. Mr Grogan also noted that ship owners are accustomed to meeting the additional compliance burdens created by port states, flag states, local authorities and charter parties wherever they trade.
578. The purpose of Rule 16.4.2.9 is to ensure that the Council has a record of speed through the water and speed over the ground, taken at one minute intervals, for every voyage the ship makes along the NTR. While the submitter has indicated that the storage of this date for a 6 month period is onerous in time and cost, I have been provided no figures, either timeframes or monetary, to assess how onerous this would be.

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<sup>166</sup> Per email correspondence with Mr Luke Grogan 26th January 2018

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579. I am inclined to proceed with caution, on the basis that the information required by the Council from this rule is necessary to demonstrate that the ship is travelling at the correct speed within the NTR to eliminate the effects of wave wash within the environment. I am inclined to conclude that the costs imposed to the submitter (and other ships) to store data for 6 months would not be so overly onerous and costly to outweigh the benefits of the Rule, the benefits being for the Council to ensure that the speeds within the NTR are adhered to and wave wash is minimised. For these reasons, I recommend that that submission point 790.005 is rejected.
580. Turning to the submission point (790.006) regarding Rule 16.4.2.17, I acknowledge the submission by Strait Shipping however, once again I consider it is important to consider the purpose of the data storage.
581. Mr Luke Grogan<sup>167</sup> has advised that calibration of ships' bridge equipment is generally carried out by the ships' officers. Most equipment will be calibrated at the time of install, but thereafter there are routine checks as per manufacturer's instructions, cross comparison with other equipment and one's own nautical knowledge. This means that errors, when they do show up, can be quite large. For example, it would not be readily apparent to most navigating officers if the 'Speed Through the Water' log was reading 0.5 knots low. And arguably, it wouldn't impact on the officers' ability to make sound navigation safety decisions. This implies that the required level of accuracy of a 'Speed Through the Water' reading for the purpose of navigation may be lower than the accuracy required if the purpose is for environmental monitoring. Council must ensure it does not limit itself to a data set that is accurate for the purpose of navigation but falls short when applied to environmental monitoring. This will likely occur if the IMO regulations are used as the benchmark. For these reasons, I recommend that submission point 790.066 by Strait Shipping is rejected.
582. Turning to submission point Strait Shipping 790.007, I have been advised by Mr Luke Grogan<sup>168</sup> that AIS generally only provides speed over the ground yet it is speed through the water that determines the size of the wash (which is what the Rule assists in controlling). AIS does not provide speed through the water, hence the data required by Council is unlikely to ever be obtainable by AIS alone ( although Mr Grogan notes that it is technically possible to configure an AIS to broadcast speed through the water but this uncommon and not done by the ferries at present).
583. Attempts to convert AIS recorded ground speed into water speed are prone to error and inaccuracy, hence specific speed through the water recordings are essential for monitoring compliance in any meaningful way. The low accuracy of tidal movements in Tory Channel have often rendered Council's efforts to convert AIS speed to speed through the water very inaccurate and/or subject to challenge.

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<sup>167</sup> Per email correspondence with Mr Luke Grogan 26th January 2018

<sup>168</sup> Per email correspondence with Mr Luke Grogan 26th January 2018

584. For these reasons, it is not considered that data available through an AIS would be accurate enough for the purpose of the Rule. I therefore recommend that submission point 790.007 is rejected.

***Recommendation***

For the reasons outlined above I recommend that Rule 16.4.2 within Volume 2 – Coastal Marine Zone remain as notified.

## **Naval Activities**

***Submission***

585. New Zealand Defence Force (NZDF) (992.067) submit that that Rule 16.1 of the MEP should be amended to provide for NZDF naval activities within the Marlborough Sounds as a permitted activity.

***Assessment***

586. No information has been provided within the submission of the NZDF regarding the nature of naval activities that take place within the Marlborough Sounds. As I am not familiar with the naval activities that occur within the Marlborough Sounds by NZDF, I asked MR Luke Grogan, MDC Harbourmaster to provide some information on the nature of these activities.
587. Mr Grogan advised that the NZDF use the Marlborough Sounds for warfare navigation training. He has been advised by NZDF that the Sounds is highly regarded as a training ground as it is one of only two places in the world suitable for the exercises they run.
588. Mr Grogan advised that unfortunately, the wake from a NZDF vessel has the potential to, and has been known to, cause the same problems as the wake from any other fast and large ships within the Marlborough Sounds<sup>169</sup>. These are issues that the current management provisions within the NTR seek to control, namely the health and safety of users of the coastal environment, damage to property, and the effects on environment caused from ship wakes.
589. Mr Grogan did note, however, that during more recent training episodes there has been no such outcry as NZDF have made a concerted effort to manage wake and speed issues.
590. Mr Grogan has indicated that he would be of a mind to support naval training activities as a permitted activity, subject to the provisions of the NTR being applied to ensure that high speed training occurs away for the NTR.
591. It is noted the Rules within the Coastal Marine Zone only place restrictions on the use of surface water for ships within the NTR and within Queen Charlotte Sound, where speed is restricted to 15 knots for a high speed ship or a ship exceeding 500 gross registered tonnes.

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<sup>169</sup> <http://www.abc.net.au/news/2016-03-04/new-zealand-apology-for-speeding-navy-boat/7219300>



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592. Given the information provided by Mr Grogan, and in the absence of any information within the submission to suggest that the current provisions are too restrictive on the NZDF operations, I consider that the current provisions provide for naval activities in area without undue restriction.
593. I consider that the restrictions placed on high speed and large ships (which may describe some of the NZDF ships) are in place to control the recognised adverse impacts of ship wake and speed on the unique Marlborough Sounds environment. I do not consider that there should be an exemption made to restrictions for Naval activities, where it has been shown in the past that such activities result in the same effects as those sought to be managed through the MEP provisions, particularly health and safety concerns and damage to property.
594. For these reasons, I recommend that submission 992.067 of the NZDF is rejected.

### ***Recommendation***

595. For the reasons outlined above I recommend that Rule 16.4.2 within Volume 2 – Coastal Marine Zone remain as notified.

## Matter 6 – Structures

596. Coastal Structures are controlled within the MEP through the following provisions;

- Issue 13F
- Objective 13.10
- Policies 13.10.1 – 13.10.27
- Methods 13.M.12 – 13.M.16 within Volume 1 Chapter 13

597. The layout of this section of the MEP provides an overarching Issue, Objective and Polices<sup>170</sup>, that apply to all coastal structures. The plan then provides for additional polices to be considered in relation to Jetties (Polices 13.10.11-18), Boatshed and Slipways (Polices 13.10.19-13.10.23), and coastal protection structures and works (Policies 13.10.24-13.10.27).

598. This section of the report will provide assessment of the submissions received in relation to each of the above categories of coastal structures.

### All Coastal Structures

#### *Submissions*

599. The majority of submissions received in relation to the notified provisions relating to all coastal structures supported them as notified.

600. The submissions that supported in part or opposed the provisions raised concerns regarding the following topic matters;

- Reference to marine farming structures and aquaculture;<sup>171</sup>
- Express exclusion of Polices to Port, Port Landing Area, and Marina Zones;<sup>172</sup>
- Application of provisions to structures used for primary production;<sup>173</sup>
- Wording of Objective 13.10 and explanation;<sup>174</sup>
- Temporary scientific monitoring equipment;<sup>175</sup>
- Failure of Policy 13.10.1 to give effect to the National Policy Statement on Electricity Transmission (NPSET);<sup>176</sup>

<sup>170</sup> Issue 13F, Objective 13.10 and Policies 13.10.1-13.10.10

<sup>171</sup> Judy and John Hellstrom (688.114), Aquaculture NZ (401.122, 122), Marine Farming Association (426.127)

<sup>172</sup> Port Marlborough (433.057), GBC Winstone (FS 250), Marine Farming Association and Aquaculture New Zealand (FS619) , Port Clifford (FS 833), Te Atiawa o Te Waka-a-Maui (1186.075)

<sup>173</sup> Federated Farmers (425.229, 230) Sharon Parkes(339.025)

<sup>174</sup> Forest and Bird (715.258) and Chorus NZ (464.026) and Spark New Zealand (1158.024)

<sup>175</sup> The Cawthron Institute (613.003) (supported by Further submissions from Clearwater Mussels Limited and Clark Island Company (FS286), The NZ King Salmon Company (FS530) and The Marine Farming Association and Aquaculture NZ (FS630)

<sup>176</sup> Transpower Limited (

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- Extent of structures and decking within the coastal marine area;<sup>177</sup>
- Matters for determining the appropriateness of a structure within the coastal marina area;<sup>178</sup>
- Removal of coastal structures;<sup>179</sup>

601. My assessment will address each of the topic matters below.

### **Assessment**

#### Reference to marine farming structures and aquaculture

602. Two submissions were received in relation to the absence of reference to marine farming structures and aquaculture within the Introduction section of the MEP.
603. At this time I do not consider that there is a need for the specific inclusion of marine farming structures within the Introduction as proposed by the submission Judy and John Hellstrom (688.114). Neither do I consider that the section of the plan managing structures within the coastal environment should expressly exclude marinating farming structures as submitted by Aquaculture NZ (401.122, 122), Marine Faming Association (426.127).
604. Until such time as the Aquaculture provisions of the plan are notified, it is not possible to anticipate the management framework that the provisions will set out. To avoid confusion for plan users I recommend that the plan remains silent on marine farming structures within Chapter 13. Any subsequent changes to the MEP following the notification of the Aquaculture provisions can be made through the plan change process.

#### Express exclusion of polices to Port, Port Landing Area, and Marina Zones and Moorings

605. The explanatory text to Objective 13.10 states that the objective and its subsequent policies do not apply to the Port Zone, Port Landing Area Zone, Marina Zone or to moorings.
606. Turning to the submission of the PMNZ (433.057), I acknowledge that the inclusion of the exempted zones within the wording of the policy would give plan users more clarity as to the application of this objective within the coastal environment.
607. I also note that on the Quality Planning Website it states that an Objective should be written in a form that describes what, when and where (my emphasis added) the council seeks to achieve it. While Objective 13.10 states it applies to the coastal environment, there are exclusions to the application of the objective outlined within the explanation. I consider it would be beneficial if this was highlighted within the objective itself. For these reasons, I recommend the amendments to Objective 13.10 as submitted by PMNZ are accepted

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<sup>177</sup> Aquaculture NZ (401.141) and Marine Faming Association (426.146), EDS (698.082)

<sup>178</sup> Eric Jorgensen (404.032), EDS (710.037), Burkhart Fisheries Limited and Lanfar Holdings (4) Limited (610.008), Legacy Fishing Limited (906.011), PauaMAC 7 Industry Association (1038.0010) and Fishing Industry Submitters (701.037)

<sup>179</sup> Aquaculture NZ (401.143) and Marine Faming Association (426.148) Transpower (1198.029)

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608. Te Atiawa request that the exclusion of the application of the Objectives and Policies relating to coastal structure for moorings is excluded, as considers that the Objectives and Policies are appropriate to apply to moorings.
609. I do not consider that the exclusion to moorings should be removed from the exclusions under this objective and subsequent policies. Moorings are managed by provisions within Chapter 13 (Objectives 13.8 and 13.9 and subsequent polices) and therefore the application of the Polices within 13.10 would create confusion to plan users as to which provisions apply. I therefore recommend that this submission is rejected.

### Application of provisions to structures used for primary production

610. Federated Farmers (425.229, 230) are concerned that the application of Objective 13.10 and Policy 13.10.6 could result in unduly constraining the location, form and function of essential farm buildings, and an exception should be provided within the policy that excludes buildings associated within primary production activities.
611. In responding to this submission, I consider there is a need to refer to the polices that apply to the Coastal Environment, as opposed to the coastal marine area. The primary concern of the Federated Farmers submission appears to relate to farm buildings that are more than likely to be located within the Coastal Environment, and it is unlikely that these types of buildings would be located within the Coastal Marine Area.
612. It is relevant to note that only Objective 13.10, and Polices 13.10.5 (on limited circumstances where immediately adjacent to the CMA) and 13.10.6 would apply when structures are located outside of the coastal marine area, within the coastal environment. Policy 13.10.6 seeks that structures should in appropriate locations and of appropriate scale and design, cladding and colours to avoid adverse effects on the landscape and amenity values of the coastal environment. It should also be noted that the rules pertaining to Coastal Environment Zone are relatively permissive regarding constriction of buildings, but do place standards in relation to appearance if a site is located within any Marlborough Sounds Outstanding Natural Feature Overlay.
613. I therefore conclude that there would be very limited circumstances in which the application of this Policy is likely to be overly onerous on primary production landowners who wish to erect buildings within the coastal environment. I therefore recommend that this submission is rejected.

### Wording of Objective 13.10 and explanation

614. Forest and Bird (715.258) submit that that explanation to Objective 13.10 should be amended to reflect the need to minimise the development of structures consistent within the policy direction that follows.
615. Chorus NZ (464.026) and Spark New Zealand (1158.024) submit that the objective should be widened to not only protect, but maintain the values of the coastal environment.

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616. In regard to the submission by Forest and Bird, I believe that the explanation to the objective provides sufficient guidance, by stating that the subsequent polices will 'inform appropriate locations, forms and limits', and therefore do not consider that information needs to be included within the objective stating how the polices will implement the objective. For this reason, I recommend that this submission is rejected.
617. The submissions of Chorus and Spark seek to include 'maintain' in addition to 'protect' within the objective in respect of the obligation on the values of the coastal environment. While I agree with the intention of the submission, as I see it, to recognise the need to protect (and therefore not allow degradation of) the coastal environment, it is clear that the Council (within the explanation to Issue 13F) is concerned about a gradual increase in the size and dominance of some structures within the coastal environment, and consider that this increase is not conducive to the values of the coastal environment.
618. Including the word 'maintain' (meaning to allow to continue) could provide for an argument that 'status quo' is acceptable, which I do not consider is the intention of the new management framework for structures. By keeping the objective as notified I consider that this places a stronger direction that structures must 'protect' (kept safe from harm) the values of the coastal environment as identified within Chapter 13. For these reasons, I recommend that the submissions of Chorus and Spark are rejected.

### Temporary Scientific Monitoring Equipment

619. Cawthron Institute have made a number of submissions in regard to the Policy and Rule framework within the MEP relating to temporary scientific monitoring structures within the coastal environment. These submissions primarily relate to Rules contained within the zones that make up the coastal environment, and have been addressed at paragraphs 1135-1150
620. In light of the recommendation reached in paragraphs 1147 -1150, I recommend that the submission of Cawthron in relation to Policy 13.10.1 is rejected.

### Failure of Policy 13.10.1 to give effect to the National Policy Statement on Electricity Transmission (NPSET)

621. Policy 13.10.1 sets out the limited circumstances where new structures within the coastal marine area will be provided for as a permitted activity. Policy 13.10.2 provides for the location of structures within the coastal marine area, subject to being assessed through the resource consent process.
622. Transpower (1198.028) support the approach taken by Policy 13.10.1, however they consider that the policy fails to give effect to the NPSET, namely polices 2 and 5, on the basis that they do not enable the National Grid (including the Cook Strait cables) in the costal marine area.
623. Within the Coastal Marine Zone, the repair and maintenance of the existing Cook Strait cable, or submarine or suspended cable or line, is a permitted activity under Rules 16.1.9 and 16.1.10, subject to the performance standards outlined within Rule 16.3.7 or 16.3.8. Other

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activities in relation to subsurface submarine or suspended lines are discretionary activities under Rule 16.6.

624. The NPSET does not give the direction to 'enable' the national grid within the coastal marine area' but directs that it should recognise and provide for the effective operation, maintenance and upgrading (Policy 2 of the NPSET), and when considering environmental effects (Policy 5) enable this to occur. I consider that this provided for in permitted activity Rules 16.9 and 16.1.10 of the MEP.
625. Policy 13.10.1 relates to new structures that will be permitted in the CMA, not the maintenance of existing, as referred to within the submission of Transpower. If a new cable was proposed within the CMA it would be subject to the resource consent process, as outlined within Policy 13.10.2. I therefore see no reason to provide for National Grid Submarine Cables within Policy 13.10.1
626. For these reasons, I recommend that the submission of Transpower is rejected.

### Extent of structures and decking within the coastal marine area

627. Policies 13.10.3 and 13.10.4 seek to minimise the area of new structures and decking within the coastal marine area.
628. Aquaculture NZ (401.141) and Marine Farming Association (426.146) submit that the word 'necessary' should be amended to 'reasonable' within Policies 13.10.3 and 13.10.4. This is opposed by Clova Bay Residents Association (FS74) and Kenepuru Sounds Residents Association (FS316).
629. EDS (698.082) submit that Policy 13.10.3 does not identify a course of action. They submit that the policy's intention is to provide guidance on how to achieve efficient use of the coastal marine area. Efficient use of space through using the minimum area required for a particular activity is one relevant tool, and others should be included. The submission seeks the policy 13.10. 3 is amended to read;

Policy 13.10.3 – Efficient use of the coastal marine area can be achieved by:

- a. ~~using the limiting structures to the minimum area necessary for structures.~~
- b. Limiting structures that have a technical or operation need to be located in the coastal marine area and for which no alternative location is available.
- c. Encouraging structures to be multipurpose where practicable.

630. I concur with the sentiment of the submission that there are other tools that could be beneficial in ensuring that structures are an efficient use of coastal space.
631. I do consider however that the matters raised within (b) and (c) of the submission are able to be considered through Policy 13.10.5 clauses (b) and (e), given that all structures within the coastal marine area would require assessment under a resource consent application. I therefore recommend that the submission of EDS is rejected.

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632. Turning to the submission by Aquaculture NZ, I do not consider that the word 'necessary' should be removed and replaced with 'reasonable'. The term 'necessary' dictates that a structure would only be appropriate if the area it takes up is 'essential'<sup>180</sup> for the structure. 'Reasonable', however, is a broader and potentially more subjective term, and may result in structures occupying a larger area than is strictly necessary. I therefore recommend that the submission of Aquaculture NZ is rejected.

### Matters for determining the appropriateness of a structure within the coastal marina area

633. Policies 13.10.5, 13.10.6, and 13.10.7 outline the matters to be considered when determining if a structure is appropriate within or immediately adjacent to the coastal marine area.

634. As outlined within Policy 13.10.2, all structures within the coastal marine area (apart from those listed in Policy 13.10.1) require assessment through the resource consent process as discretionary activity.

### **Submissions**

635. EDS (710.037) submit that it is not clear why Policy 13.10.5(g) does not identify other high value and sensitive areas. They submit that the policy should be amended to include additional criteria, namely; natural character and landscape values, and the terrestrial, freshwater and marine environment. This submission is opposed by Port Marlborough (FS945) who consider the amendment proposed will duplicate other policies within the MEP.

636. In relation to Policy 13.10.6 Te Atiawa o Te Waka-a-Maui (1186.076) consider that the context of appropriate, in terms of scale, design, cladding and colour should avoid or mitigate adverse effects on the biological processes.

637. Aquaculture NZ (401.142) and Marine Farming Association (426.147) submit that the word 'landscape' in Policy 13.10.6 should be removed as this is unnecessary duplication with the landscape character. These submissions are opposed by Clova Bay Residents Association (FS74) and Kenepuru Sounds Residents Association (FS316).

638. In relation to Policy 13.10.7, Federated Farmers (425.231) considers that this policy should only apply to structures within the coastal marine area, and not the coastal environment. Federated Farmers submits that this policy should specify where structures are required to be designed and located allowing for relevant and dynamic coastal processes. The explanatory text notes that structures are designed by appropriately qualified experts to ensure these matters are considered, however Federated Farmers is unsure whether this means that all structures in the coastal environment must be designed by experts to allow for dynamic coastal processes.

### **Assessment**

639. While I acknowledge the submission of EDS, I consider that the additional criteria that they have proposed to be included within Policy 13.10.5(g) are already provided for and will be given due consideration within Chapter 13 of the PMEP, in particular Policy 13.1.1(a) and (b) and

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<sup>180</sup> Oxford Dictionary (necessary)

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- 13.2.1(a) in relation to natural character and landscape values, and 13.1.1(c) and 13.2.1 (e) and (f) in relation to the terrestrial, freshwater and marine environment.
640. In addition, the Objectives and Policies contained within Chapters 6 – Natural Character, Chapter 7 - Landscape and Chapters 8 – Indigenous, and Chapter 15 – Resource Quality of the PMEP also provide for consideration of these higher level matters. As stated within the introduction to Issue 13A, all applications for activities within the coastal environment are firstly subject to the provisions of 13A. For these reasons, I recommend that the submission of EDS is rejected.
641. In response to the submission of Te Atiawa o Te Waka-a-Maui, at this time I am unsure of the biological processes that they consider could be affected from structures. I consider that the intention of this policy is to address the potential visual amenity effects of structures within the coastal environment, and as such it makes sense that the policy is limited to consideration of factors that contribute to visual and landscape amenity. I also consider that the provisions contained within Chapter 6- Natural Character, and Chapter 8- Indigenous Biodiversity would provide appropriate consideration of any biological processes that may be affected by structures within the coastal environment, and would be considered through any resource consent application. For these reasons, I recommend that the submission of Te Atiawa o Te Waka-a-Maui is rejected.
642. Turning to the submission of Aquaculture NZ, as outlined above the intention of Policy 13.10.6 is to address the potential visual amenity effects of structures within the coastal environment, and this can have effects both on amenity values and the landscape of the coastal environment. I concur that landscape is given consideration within a number of other policies within the chapter, however given that this policy focuses on visual impacts, it is important that the landscape in the location within which the structure sits is considered. For these reasons, I recommend that the submission of Aquaculture NZ is rejected.
643. In response to the submission by Federated Farmers, I consider that the nature of coastal processes, and in particular sea level rise, means that the MHW level could rise over time within the coastal environment. There is also clear direction from the NZCPS<sup>181</sup> and RMA<sup>182</sup> that the Council must recognise and provide for the management of hazard risk.
644. It is logical that any assessment of a proposed structure within the coastal environment should consider the potential effects of coastal processes. In terms of how this policy may influence decision making, the onus is on applicants to provide information when submitting an application. I consider that MDC would apply this policy on case by case basis. In particular, structures proposed within the CMA or immediately adjacent to it are likely to require more information regarding the effects of coastal processes than, for example, an application on the edge of the coastal environment. I therefore recommend that the submission of Federated Farmers is rejected.

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<sup>181</sup> NZCPS Policy 24

<sup>182</sup> RMA s6(h)



Removal of coastal structures

645. Policy 13.10.10 outlines the circumstances where a coastal structure will be required to be removed.
646. Aquaculture NZ (401.143) and Marine Farming Association (426.148) submit that sub-section (c) should read "where consent to authorise an existing structure is refused or any appeals have been exhausted".
647. Transpower (1198.029) submits that the proposed Policy fails to contemplate a scenario where the removal of a structure in the coastal marine area may be impractical and may have adverse effects. For instance, the removal of a submarine cable presents substantial challenges and may result in adverse effects resulting from the disturbance of the seabed.
648. I consider that the submission by Aquaculture NZ is reasonable, given that it is unlikely and impractical for the Council to request the removal of a structure until appeal avenues have been exhausted. The amendment as proposed within this submission provides both clarity and reassurance to plan users. My only reservation is the delay that this may have in getting structures that have been refused resource consent removed, however I consider this is outweighed by an applicant's rights to proceed through all available channels. For this reason, I recommend that that this submission is accepted.
649. I acknowledge the submission of Transpower, and do consider that the circumstances that are raised within their submission could occur, and in those cases would be contrary to Policy 13.10.10. In particular this is notable within the coastal marine area, where the environment is particularly sensitive, especially the sea bed.
650. In light of the submission of Transpower I recommend that the word 'shall' within Policy 13.10.10 is replaced within the word 'may'. I do not consider the amendment to the policy will weaken the application of the policy but will provide an avenue to allow the Council to have discretion as to whether it requires the removal of a structure, if evidence is provided that the structure's removal may have more significant effects on the coastal marine area than if it was retained. For this reason, I recommend that the submission of Transpower is accepted.

**Recommendations**

651. I recommend that the first paragraph of the explanation to Issue 13J is amended to read;

***Issue 13F – There continues to be significant pressure for the development and/or redevelopment of a variety of coastal structures, including providing for boat access to properties within the Marlborough Sounds.***

*As a result of difficult topography and the subsequent financial and physical difficulties, [and sometimes environmental impacts](#)<sup>183</sup> in establishing roads in steep terrain, the Marlborough*

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<sup>183</sup> Forest and Bird (715.257)

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*Sounds roading network is limited. Many property owners therefore rely upon boats to gain access to their properties.*

652. For the reasons outlined above, I recommend that Objective 13.10 is amended to read;

Objective 13.10 – Excluding structures within the Port, Port Landing and Marina Zones<sup>184</sup>, Structures in the coastal environment including jetties, boatsheds, decking, slipways, launching ramps, retaining walls, coastal protection structures, pipelines, cables and/or other buildings or structures are appropriately located and within appropriate forms and limits to protect the values of the coastal environment.

653. For the reasons outlined in above, I recommend that the Policy 13.10.10 is amended to;

**Policy 13.10.10 – Coastal structures ~~shall~~ may<sup>185</sup> be required to be removed from the coastal marine area in the following circumstances:**

**(f) where there is no longer a need for the structure;**

**(g) when a coastal permit for a structure expires and no new permit has been sought; or**

**(h) where consent to authorise an existing structure is refused or any appeals have been exhausted<sup>186</sup>.**

### Jetties, Slipways and Boatsheds

654. Policies 13.10.11 to 13.10.18 provide a subset of additional polices that apply only to jetties within the Coastal Environment. These policies provide additional guidance on jetties in relation to;

- Matters to be considered for new jetties (Policy 13.10.11);
- Avoiding the cumulative effects of jetties (Policy 13.10.12);
- The use of jetties (Policies 13.10.13,14,17);
- The effects on jetties on visual amenity and public access to the CMA Policies 13.10.15,16); and
- Re-consenting of existing jetties (Policy 13.10.18).

655. Policies 13.10.19 to 13.10.23 provide a subset of additional polices that apply only to boatsheds and slipways within the Coastal Environment. These policies provide additional guidance on boatsheds and slipways in relation to;

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<sup>184</sup> Port Marlborough (433.057), GBC Winstone (FS 250), Marine Faming Association and Aquaculture New Zealand (FS619), Port Clifford (FS833)

<sup>185</sup> Aquaculture NZ (401.143) and Marine Faming Association (426.148)

<sup>186</sup> Transpower (1198.029)

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- The purpose/use of a boatshed (Policies 13.10.19 and 13.10.20);
- Matters to be considered for new or extensions to existing boatsheds or slipways (Policy 13.10.20);
- The effects on boatsheds on visual amenity (Policy 13.10.22); and
- Re-consenting of existing boatsheds and slipways (Policy 13.10.23).

### **Submissions**

656. Overall, the majority of submissions received were supportive of the policy suite for jetties, boatsheds and slipways as notified.
657. All submissions received in relation to Policies 13.10.12, 13.10.13 and 13.10.17 supported the policies as notified.
658. The majority of submissions that either opposed aspects of the provisions, or supported the provisions in part, made the same or very similar submissions on the policies for jetties and the policies for boatsheds and slipways. For this reason I have grouped the submissions together by topic matter, with an assessment provided on the submissions made in relation to both jetties and boatsheds.
659. Where submissions have only been made either solely in relation to jetties, or solely in relation to boatsheds, this is identified within the assessment below.
660. In summary, the submissions in relation to jetties, boatsheds and slipways can be grouped into the following topic matters;
- Use of jetties and boatsheds
  - Reverse Sensitivity
  - Signage
  - Lighting
  - Re-consenting
661. In addition the following topic matters were raised though submissions solely in relation to jetties
- Visual Impact of jetties
  - Public access and use of jetties
662. In addition the following topic matters were raised though submissions solely in relation to boatsheds
- Hamish Doig Submission
663. My assessment below will address each of these topic matters.

## Jetties and Boatsheds

### Use of Jetties and Boatsheds

#### **Submissions**

664. The Fishing Industry Submitters (710.039, 40), Burkhart Fisheries Limited and Lanfar Holdings (4) Limited (610.013, 15), Legacy Fishing Limited (906.017,18), and PauaMAC 7 Industry Association (1308.0164,16) oppose in part Policy 13.10.14 and Policy 13.10.19, as they submit that these policies unduly restrict the use of jetties and boatsheds for storage of fishing gear and associated equipment such as chillers or storage bins. They submit that because of the length of Marlborough's coastline, several commercial fishing operations are based outside the designated Port Zones or Port Landing Area Zones. These operations rely on the use of small private jetties and boatsheds, including for the purpose of storing fishing gear and associated equipment necessary to carry out a fishing business. They submit that it is not always possible to store fishing-related equipment on private land (as suggested under Policy 13.10.14) because there may not be any suitable private land adjacent to the jetty or boatshed. They request an amendment to the policy to allow for storage to the extent necessary for an existing commercial operation.
665. The Fishing Industry Submitters (710.038) also oppose in part Policy 13.10.11 because it does not take into account the necessity of jetties for use by commercial activities in the coastal marine area. Policy 13.10.11 refers in provision (a) to *'the necessity for the jetty (or alteration or extension), including whether it will be used for individual or community use or commercial activity on land'*. They submit that it is not clear why the recognition of commercial activities is restricted to activities 'on land', especially as many commercial activities requiring a jetty take place at sea.
666. Jono Wilson (231.004) submits that this policy may result in a dangerous situation for the inexperienced or elderly people who may otherwise leave their boat at their jetty as not every boatie is comfortable with anchoring or mooring a boat. The submitter requests that 'storing of boats' is removed from the policy.
667. Te Runanga O Ngai Kuia (501.057 ) submit that Policy 13.10.11 should include a new subsection that considers 'alternative locations (for jetties) with less adverse effects'.

#### **Assessment**

668. Turning to the submission by Fishing Industry submitters and associated submitters, I have not been provided with sufficient information within the submissions to consider the extent of use of jetties and boatsheds for storage of commercial fishing gear and associated equipment.
669. I have however contacted Mr Peter Johnson, Senior Resource Management Officer at the Council. Mr Johnson advised that the gear and equipment that he has encountered on private jetties has been associated with aquaculture, e.g. dropper rope and mussel bags. He could not

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recall any resource consent applications which have explicitly sought to use a jetty or boatshed for the storage of commercial fishing (as opposed to aquaculture) gear or equipment.

670. Regardless of the above, as outlined within the s32 report, one of the intentions of the policies is to assist in managing the impacts of public use of the environment and avoiding certain types of jetty structures (and use) that effectively privatise the foreshore area<sup>187</sup>.
671. I consider that providing for storage on jetties and within boatsheds for commercial activities (as proposed by the submitters) may have both visual effects on the coastal environment (increasing the visual bulk and scale of jetties) and would give an impression of privatisation of those jetties or boatsheds for commercial use. I consider that there are other alternatives for commercial businesses to use areas of the coastal environment that have been identified as appropriate for such activities (such as Port and Port Landing Area Zones) where these activities are anticipated and provided for within the MEP. In circumstances where there may be a need for storage for commercial activities in remote locations, this could be assessed through the resource consenting process, and assessed on a case by case basis, however given the clear direction of the policies that clearly outline the intended use of jetties, this is only likely to be considered in very exceptional circumstances.
672. As outlined within Policy 13.10.13 in relation to jetties, the Coastal Marine area is available for all to use, and the Marine and Coastal Area (Tukutai Moana) Act 2011 provides guaranteed rights for this use. Given the nature of the coastal marine area, and reserve land adjacent to the foreshore, it is important that a jetty is used solely for the purposes outline in Policy 13.10.14. This reflects in particular the direction from the NZCPS that directs occupation of the coastal marine area to *'recognise that activities that do not have a functional need for location within the coastal marine area should generally not be located there'*. I do not consider that the storage commercial fishing gear has a functional need to be located within the coastal marine area.
673. While I acknowledge the submission of The Fishing Industry Submitters (710.038), I do not consider that the removal of the words 'on land' is necessary. To my knowledge there would be no commercial activity solely based within the coastal marine area. For example there would be an element of all commercial business that is required to occur on land, that being the location of an office, storage of equipment, loading and unloading facilities. As such the application of the words 'on land' within the policy are relevant and reflect the nature of commercial operations. For these reasons, I recommend that this submission is rejected.
674. In response to the submission of Jono Wilson, I do not consider that this provides sufficient justification to provide for the storage of boats at jetties. As outlined within the MEP, there are other options for boat storage (i.e. boat storage at marinas) that would not require anchorage or mooring. I do not consider that it is unreasonable for people in the situations as described by

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<sup>187</sup> Section 32: Chapter 13 – Coastal Structures and Seabed Disturbance pg 24

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Mr Wilson to use alternative options for storage. I therefore recommend the submission of Jono Wilson is rejected.

675. I acknowledge the submission of Te Runanga O Ngai Kuia (501.057) but consider the application of the alternative wording as proposed by the submitter is too vague and would not provide enough guidance to both plan users and decision makers as to how it would be applied. In addition, the considerations for new jetties provided within Policy 13.10.5 and 13.10.11 would provide for an assessment of the appropriateness of the new structure within the coastal marine area. I also consider that a policy clause as submitted, to consider alternative locations, may be unduly onerous on applicants and the Council, for example, in requiring the collection of information to demonstrate that alternative locations are not appropriate. For these reasons, I recommend that the submission of Te Runanga O Ngai Kuia is rejected.

### Reverse Sensitivity

#### **Submissions**

676. Aquaculture NZ (401.144) and Marine Farming Association (426.149) submit that a new sub-section (d) should be added to Policy 13.10.11 (in relation to jetties) and Policy 13.10.12 (in relation to boat sheds/ and or slipways) to consider "whether the new, altered or extended jetty or boatshed/slipway may give rise to potential reverse sensitivity issues, and how that could be avoided." These submissions are opposed by Clova Bay Residents Association (FS74) and Kenepuru Sounds Residents Association (FS316) on the grounds that the change does not support sustainable management of the environment.

#### **Assessment**

677. Although not specifically stated within the submission, I anticipate that the primary concern of these submitters is the impact of new or extended structures on existing (and consented) occupations of the coastal marine area, such as aquaculture activities. Policy 13.10.5 applies to all structures within the coastal marine area, including jetties and boatshed, and in particular Policy 13.10.5(i) requires the consideration of *'the operation of any existing activity or any activity that has been granted consent.* I consider that this policy will serve to provide appropriate consideration on the impacts of new structures on existing activities within a resource consent application assessment. For this reason, I recommend that the submissions of Aquaculture NZ and the Marine Farming Association are rejected.

### Visual Impact

#### **Submissions**

678. Two (2) submissions from Hugh Bethell 69.001 and Jono Wilson 231.002 were received that object to the inclusion of sub-clause (e) to Policy 13.10.15 that seeks a reduction to the visual impacts of jetties, by avoiding the use of boat lifts alongside jetties for storage.
679. East Bays Conservation Society (100.001) and Judy and John Hellstrom (688.125) raise concern regarding subclauses (b) and (d), that outline a preference for floating jetties, and

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discourage jetties that run parallel to the shore. The submissions state that these policy clauses seeking to reduce the visual impact of jetties will in fact make them more dangerous, particularly in difficult conditions, and that policy to make them smaller, shallower and look less like jetties comprises the safety of these structures. They also note that floating jetties are more expensive to erect and are more susceptible to break-up within exposed locations.

680. KiwiRail Holdings Ltd (873.046) submit that Policy 13.10.15(a) needs to clearly exclude jetties located within the Port Zone.

### Assessment

681. In relation to boat lifts, the intention of Policy 15.10.15(e) is to reduce the visual impacts of jetties by avoiding the use of boat lifts alongside jetties for boat storage. I conducted site visits to Queen Charlotte Sound in August 2017 and viewed a number of jetties that had boat lifts installed alongside jetties. Where boats were stored, the visual impact was significantly more than a jetty without a lift. This was due to the structure itself and the boat being stored out of the water which I considered to be visually prominent within the coastal environment. While I appreciate the points raised by submitters, I consider that the benefits of boat lifts (to allow people to clean and store boats) can be provided for within other locations like marina or port locations, where these activities are expected and provided for within the MEP, and will not have such a visual impact on the coastal marine area. For these reasons, I recommended the rejection of submissions that seek to remove Policy 13.10.15(e).
682. I do not consider that the submitted amendment to Policy 13.10.15 by KiwiRail is required if the recommendations in relation to Objective 13.10 are adopted by the hearing panel. This amendment (as proposed in paragraph 655) would clarify to plan users that the provisions relating to structures, which includes Policy 13.10.15, do not apply within the Port, Port Landing, or Marina Zones. I therefore accept this submission in part, subject to my recommendations in relation to Objective 13.10 being accepted by the hearing panel.
683. Turning to the submissions of Judy and John Hellstrom and the East Bays Conservation Society, I consider that the wording of the policy as notified provides the Council with discretion to consider any potential effects of a floating design on practicality and safety in exposed locations. In these circumstances, it would be appropriate for the applicant to provide information within any consent application as to the reasons as to why a floating jetty is not practical (which may include reasons raised in submissions). The intention of the policy is to reduce the visual impact of jetty structures within the coastal environment, and it must be anticipated by those wishing to erect structures that there will be some cost implications. However, just because a floating jetty may be more costly (although I have been provided no information to enable a cost comparison to be undertaken) this does not provide a justification as to why it should not be sought, when the benefits to the amenity of coastal environment could be substantial.
684. East Bays Conservation Society and Judy and John Hellstrom also submit in opposition to Policy 13.10.15(d), which seeks to discourage jetties that run parallel to the shore. The

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submission considers that parallel jetties reduce the visual impact by reducing the impact of the width of the jetty, and that in some cases (dependent on location) a parallel jetty is required to align with prevailing wind and sea conditions.

685. I visited Queen Charlotte Sound in August 2017 to view the range of structures that are common within the sounds. I noted that there were a number of different forms of jetty. Jetties were predominantly designed perpendicular to the shore, but there were a number that had elements that were both perpendicular from and parallel to the shore (they first extended away from the shore, then had a parallel jetty at the end; a “T” or “L” shape). I assume that the main reason that most of the jetties run perpendicularly to the shore is due to water depths within the sounds, and the need to project a sufficient distance into coastal water to allow boats to moor at the jetty. The addition of a parallel element may assist in providing more boat berth area.
686. From my observations, I believe that the jetties that run parallel are a much more visually prominent structure than those that project only perpendicularly to the shore. Given that it is the intention of the policy to provide guidance as to how to reduce the visual amenity of jetties, I consider that discouraging the erection of parallel jetties (depending on individual circumstances that may apply to particular locations that can be considered through a resource consent applications) is appropriate, given that from my experience they are more visually prominent.
687. For the reasons outlined above I recommend that the submissions of East Bays Conservation Society and Judy and John Hellstrom are rejected.

### Signage

688. Policies 13.10.15(i) and 13.10.22(g) seeks to reduce the visual effects of jetties and boatsheds on the coastal environment by avoiding signage on these structures, other than those that assist emergency services.

### **Submissions**

689. Judy and John Hellstrom (688.125) submit that a ‘one size fits all policy’ in relation to signage on jetties is inappropriate given that most jetties within the sounds have multiple users and are landmarks associated with particular properties and rental accommodation, where signage is essential for identification.
690. In relation to boatsheds, Douglas and Collee Robbins (640.007), Glenda Vera Robb (738.010) and Melva Joy Robb (935.007) submit that there should be provision for tourist operators to erect signs on boatsheds for resorts and boat hire business, and to help with location identification.
691. The deletion of this policy is opposed by the New Zealand Fire Service Commission (NZFSC)(FS 1094) who consider such signs critical to the location of access in the event of an emergency, and that the deletion of this policy may hinder the fire service achieving its obligations and functions.



**Assessment**

692. Having visited Queen Charlotte Sound in August 2017, I am aware of the various types of signage that have been erected on jetties and boatsheds within the sounds. I noted on my site visits that the predominant nature of signage on jetties sought to proclaim that the jetty was for 'private' use only. I witnessed a limited number of identification signs for properties.
693. While I appreciate the position of the submitters, that signage is useful for navigation, I do not consider that there is need for signage to be located on a jetty or boatshed, and would be more appropriate located on private land. I also consider the need for identification signage is decreasing with the use of GPS navigation and mapping, that will direct most people to their desired location.
694. For these reasons, I reject the submissions that oppose the policies in relation to signage, and accept the further submission of NZFSC to retain the policy as notified.

Lighting

**Submissions**

695. Two submissions were received from the Port Underwood Association (1042.007,008) and Kenneth R and Sara M Roush (845.005,006) in relation to Policy 13.10.15 (f) and 13.10.22(f) seeking that the clause is extended to require those lights that are necessary on jetties and boatsheds to be fully shielded to prevent light spillage above the horizontal plane of the light source. The submission states that the provisions must recognise that the NZCPS (Policy 13.2(e)) requires the preservation and protection of the natural darkness of the night sky.

**Assessment**

696. While I do not have expertise in lighting, I am aware that light spillage is where light falls outside the object to be illuminated<sup>188</sup>. For this reason I consider that it would be acceptable to make provision within the policy to reduce light spillage as much as possible for required lighting on jetties and boatsheds, particularly given that the MEP provisions are required to give effect to NZCPS Policy 13.2(e).
697. It would be foreseeable that any proposed lighting details could be provided within a resource consent application, and it would be up to the applicant to demonstrate that the lighting will not result in light spill. Council should ensure that they have a suitably qualified officer or consultant who is able to assess the suitability of any lighting proposed. I consider that the appropriate lighting treatment will be dependent on the nature of lighting proposed, and may include provision for lighting fixtures (as submitted) but could also be provided by certain lighting types, luminaires and location.
698. For this reason, I concur with the submission that the Policy 13.10.15(f) and Policy 13.10.22(f) requires further guidance on lighting when it is required. If the commissioners are inclined to agree with this position then I would recommend the following wording "*avoid locating lights on*

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<sup>188</sup> <http://www.veelite.com/wp-content/uploads/Glare-Light-Spill.pdf>

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*jetties (or boatsheds) other than those required to facilitate access. Where lighting is required for access, ensure that lighting is designed to minimise lightspill.*

### Public Access for Jetties

#### **Submissions**

699. Eight submissions were received that opposed, or opposed in part, the inclusion of Policy 13.10.16(c) that requires that jetties are made available for public use. The explanation to the policy states that coastal permits will be conditioned to require jetties to be available for public use. The submitters raised concerns that the requirement for public use will have implications on;

- Commercial activities<sup>189</sup>;
- Costs for consent owners as a result of damage caused to jetties by public users<sup>190</sup>.
- Unfettered use of jetties by the public, and loss of ability for consent owners to control use<sup>191</sup>.

700. Jones, Annabel Farquar and Goldie Neveille Charles Clarke and Richard Spencer (443.002) submit that jetties must be available for public use and this requirement should be listed as a standard condition, and that consent should not be granted for any jetty that has the effect of limiting access to any part of the jetty.

#### **Assessment**

701. As outlined within the explanation to Policy 13.10.16, the primary intention of this policy is to facilitate public accesses the coastal marine area, and that this policy, along with other public access policies in the MEP, states that coastal permits will be conditioned to require jetties to be available for public use.

702. The intention of this policy, and subsequent consent conditions, is once again to avoid structures that effectively privatise the foreshore. As evidenced by the MEP Zoning maps, the majority of the coastal waters of the sounds are bordered on land by Sounds Foreshore Reserve (open Space 3 Zone), which is managed by DOC and is land that is publicly accessible. Jetties are primarily affixed to this land, which then may provide access to private property directly landward of the Sounds Foreshore Reserve.

703. There is clear direction from the NZCPS In Policy 6(2)(b) and Policy 18 of the need to recognise and maintain and enhance the public open space and recreational qualities and values of the coastal marine area. In addition, Policy 6(e)(i) of the NZCPS requires the promotion the efficient use of occupied space, including by requiring that structures be made available for public and multiple use wherever reasonable and practicable. The policies of the

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<sup>189</sup> Fishing Industry Submitters (710.041), Burkhart Fisheries Limited and Lanfar Holdings (4) Limited (610.014), Legacy Fishing Limited (906.017), and PauaMAC 7 Industry Association (1308.015), PMNZ(FS-974).

<sup>190</sup> Judy and John Hellstrom (688.126)

<sup>191</sup> Judy and John Hellstrom (688.126), Tauwera Lodge Trust (1185.008)

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NZCPS are also given effect to though the provisions contained within Chapter 9 – Public Access and Open Space within the MEP.

704. For these reasons, I believe that there is clear direction from the higher order documents of the NZCPS, and the provisions contained within Chapter 9 – Public Access and Open Space, that public access should be provided on jetties. Jetties by nature are structures that facilitate public access, and I consider that this policy, with consideration within the resource consenting process that could consider exceptional circumstances to this requirement, to be reflective of the obligations of the Council under the NZCPS.
705. In addition, I do not consider that the exceptions or particular circumstances raised by submitters justify exclusion of the public. Commercial and private owners must recognise and give consideration to the obligation to the public to use a jetty when making an application for resource consent. I consider that the costs to jetty owners, that may include damage and inconvenience, are outweighed by the benefit of ensuring that public access is afforded to coastal marine areas, and public areas of the coastal environment.
706. In response to the Jones submission requesting that consent conditions requiring public access should be standards for all jetties resource consents, Policy 13.10.16(c) of the Plan requires that jetties are made available for public use, and the explanation outlines that coastal permits will be conditioned to require that jetties are available for public use.
707. As the construction of a jetty is a Discretionary Activity it is not appropriate to include standards within the rules that relate to conditions to be imposed. Section 104B(b) states that in determining applications for discretionary activities a consent authority may, if it grants an application, impose conditions under s108. S108 allows a consent authority to include any condition (subject to 108AA) that the consent authority considers appropriate. It is therefore within the functions of the Council to apply consent conditions that relate to access.
708. For the above reasons, I recommend that submissions that seek to restrict public access to jetties are rejected, and that Policy 13.10.16 remains as notified.

### Re- consenting

#### **Submissions**

709. Tauwera Lodge Trust (1185.008, 010) oppose Policy 13.10.18, and 13.10.23 as they consider that the policies to be considered when issuing new consents for existing jettys and boatsheds are at odds with the reality of the existing structure and may not be able to be remedied, and that older structures need to be exempted from these policies.

#### **Assessment**

710. While I appreciate and acknowledge the concern of the submitter in relation to existing older structures, I consider that for the Council to take an approach of allowing existing 'structures' because they have always been there, is contrary to the purpose of the RMA and NZCPS. In particular they provide for coastal permits to be issued for a limited time so that effects of

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activities, especially within sensitive environments such as the coastal marine area, can be assessed over time. As outlined within the explanation to the policy, matters that are relevant may change over time, including natural character, amenity values and public access, and they require the same level of consideration for existing structures as any new proposed structures. For these reasons, I recommend that the submissions of Tauwera Lodge Trust are rejected.

### Boatsheds

#### **Submission**

711. A submission was received from Hamish Doig in opposition to Polices 13.10.10-13.10.23 that relate to boatsheds. Mr Doig considers that the polices are overly restrictive in so far as they prohibit any ancillary use of a boat shed in conjunction with its primary use for storing boats and boating equipment. He considers they also limit the ability of bach owners to enjoy the coastal environment and participate in recreation (including passive recreation) within a facility that is otherwise appropriate in terms of its primary purpose, form and appearance. The submitter considers that the polices (in particular 13.10.19) go further than necessary or appropriate to give effect to Objective 13.10, Policy 6 of the NZCPS and Policy 7.1.10 of the Marlborough Sounds Regional Policy Statement (MSPS).

#### Assessment

712. As outlined within Policy 13.10.13 in relation to jetties, the coastal marine area is available for all to use, and the Marine and Coastal Area (Tukutai Moana) Act 2011 provides guaranteed rights for this use. In addition, as outlined within the s32 report, given the nature of the coastal marine area and reserve land adjacent to the foreshore, it is important that a boatshed is used solely for the purpose given in the consent, that being for the storage of a boat and boat equipment. This reflects the direction of the NZCPS that directs occupation of the coastal marine area to *'recognise that activities that do not have a functional need for location within the coastal marine area should generally not be located there'*<sup>192</sup>,
713. Following on from this direction, I consider that Policy 13.10.13 provides for the provision of boatsheds within the coastal marine area, in particular within the sounds, where in most circumstances access to properties is by boat and it would be unreasonable to provide boat storage on private properties in these locations. This is recognised and provided for within the MEP. In my opinion, to extend this need to allow a structure to also be used for recreational activities (including passive recreation) is a stretch from the intention of the NZCPS. These activities do not have a functional need to be located within the coastal environment, and could in fact easily be undertaken on private land outside of the coastal marine area, or within the coastal marine area, without needing to use the structure.
714. Whilst I acknowledge that Policy 6 of the NZPCS contains the word 'generally' in Policy 6(1)(c), to extend this exception to provide for private activities, occupation, and use of an area of the coastal marine area for activities that do not need to be located there, goes against the 'public

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<sup>192</sup> NZCPS Policy 6(2)(d)

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access' and 'minimum occupation' flavour of the NZCPS. In addition, the NZCPS guidance states that context is important in determining the functional need and appropriateness of providing for activities in a particular location. For example, what is a high functional need in one place will not necessarily be the same in all coastal locations<sup>193</sup>. I consider that where a boatshed is providing space for recreational activities that could just as easily occur on private property outside the coastal marine area, one would unlikely to be able to justify a high functional need to be located within the coastal marine area. While I agree with the submitter that the resource consent process may provide some ability to Council to provide an assessment of a case by case basis, once again I consider that the activities as proposed by the submitter are not exceptional circumstances that the Council would consider necessary to be undertaken within the coastal environment.

715. The submitter considers that as long as boatsheds are not principally used for residential use (e.g. do not contain overnight accommodation) there can be no justification to prevent recreational use in conjunction with the primary use for storing boats. As outlined above, I do not consider that other recreational activities within a boatshed have a functional need to be located within the coastal marine area. There appear to be no particular exceptional circumstances that indicate that there would be a high functional need for boatsheds to provide for the activities raised by the submitter, given that all of those activities can be undertaken on land adjacent to the coastal marine area, or outside of the boatshed structure within the coastal marine area, that would be accessible to the public.
716. The submitter has suggested that allowing for multiple use of boatsheds will have benefits in the form of safety, convenience and enjoyment to those who use the facility, enabling social and cultural wellbeing in terms of s5 of the RMA. It is noted however that this is realistically only going to extend to the owner of the boatshed and guests, given that it would not be anticipated that public access would be provided to such a facility.
717. The submitter has stated that the policies as notified fail to 'give effect to Section 6' of the NZCPS, in particular that the policies do not provide for multiple use in terms of Policy 6.2(e)(i). I would point out that the Policy 6 of the NZCPS also requires that structures are made available for public use, which as identified above is unlikely in the case of a boatshed and 'associated recreational' activities within this structure. I also believe that the intention of the term 'multiple' relates to facility sharing – a position supported by NZCPS Guidance on this Policy<sup>194</sup>. It is therefore unlikely as outlined above that a boatshed for private use would give effect to this aspect of Policy 6.2(e)(i).
718. Mr Doig also raises concern that the explanation to Policy 13.10.19 states that where a boat shed ceases to be used for the purpose of storing boats for which consent is sought, it should

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<sup>193</sup> NZCPS 210 Guidance note Policy 6: Activities in the coastal environment, DoC, pg 12  
<http://www.doc.govt.nz/Documents/conservation/marine-and-coastal/coastal-management/guidance/policy-6.pdf>

<sup>194</sup> NZCPS 210 Guidance note Policy 6: Activities in the coastal environment, DoC, pg 13  
<http://www.doc.govt.nz/Documents/conservation/marine-and-coastal/coastal-management/guidance/policy-6.pdf>

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be removed. The submitter is concerned that the cost implications of this to the owner have not been considered within the s32 assessment.

719. I note that this wording is included within the explanation of the policy and not the policy itself. I understand the direction of Council in regard to its inclusion, but agree with the submitter that the practical application does not appear to have been fully considered. I do consider, however, that the Council should ensure that boatsheds are used for the purposes outlined in Policy 13.10.19, and that this can be achieved through consent conditions on a resource consent. If the Council is later satisfied a structure is no longer in use for the purposes contained within the consent conditions, or that is it abandoned or dilapidated, then the Council will have the discretion to consider if enforcement action is appropriate, which may include requiring removal. This, however, will require consideration on a case-by-case basis and will be dependent on the conditions of the resource consent issued. For these reasons, I consider the removal of the last sentence in the explanation of policy 13.10.19 is appropriate.
720. For the reasons outlined above, the submission by Mr Hamish Doig should be rejected, and I recommend that the additional polices for boatsheds contained within Polices 13.10.19-13.10.23 remain as notified with the exception of minor amendments as outlined above and contained within my recommendations below.

### **Recommendations**

721. I recommend that the Policies 13.10.11, 13.10.12, 13.10.13, 13.10.14 are retained as notified.
722. I recommend that the Policy 13.10.15 is amended to;

#### **Policy 13.10.15 – Reduce the visual impact of jetties on the coastal environment by:**

- (i) limiting the width of jetties to two metres;**
- (j) where practicable, using floating jetties, which tend to have a lower profile than fixed jetties and provide easier access to the shore;**
- (k) limiting the size, colour and height of mooring piles associated with the jetty;**
- (l) discouraging the use of jetties (or parts of jetties) that run parallel to the shore, as they can cause greater visual impact than jetties perpendicular to the shore;**
- (m) avoiding the use of boatlifts alongside jetties for boat storage;**
- (n) avoiding locating lights on jetties (other than those required to facilitate access). Where lighting is required for access, ensure that lighting is designed to minimise lightspill<sup>195</sup>;**
- (o) encouraging new jetties, link spans and piles to be built from materials that are non-reflective or painted in non-reflective colours;**
- (p) avoiding the use of highly-coloured fenders; and**

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<sup>195</sup> Kenneth R and Sara M Roush (845.005) and Port Underwood Association (1042.007)

***(q) avoiding signs on jetties other than those assisting emergency services.***

723. I recommend that the Policies 13.10.16 to 13.10.21 are retained as notified.

724. I recommend that the explanation in Policy 13.10.19 is amended to;

A boatshed cannot be used for anything other than storing a boat or boating equipment. Given the public nature of the coastal marine area and reserve land adjacent to the foreshore, it is important a boatshed is used for the purpose for which consent was sought. ~~Where this ceases to occur, the building should be removed.~~<sup>196</sup>

725. I recommend that the Policy 13.10.22 is amended to;

***Policy 13.10.22 – The visual impact of boatsheds on the values of the coastal environment will be reduced by:***

- (r) ensuring boatsheds are limited to one storey in height, with no internal upper flooring;***
- (s) requiring boatsheds to be built of materials that are non-reflective or are painted in non-reflective colours that blend with the surrounding shoreline or bush;***
- (t) avoiding the use of concrete in the external appearance of the boatshed, except where its use is necessary in the footing or foundations of the structure;***
- (u) avoiding large windows and glass doors (including glass sliding doors);***
- (v) avoiding the use of boatlifts alongside jetties for boat storage;***
- (w) avoiding locating lights on boatsheds (other than those required to facilitate access). Where lighting is required for access, ensure that lighting is designed to minimise lightspill<sup>197</sup>; and***
- (x) avoiding signs on boatsheds other than those assisting emergency services.***

726. To correct errors in numbering I recommend that the Policy 13.10.23 is amended to;

***Policy 13.10.23 – In determining a new consent application for a lawfully-established existing boatshed and slipway, the matters in Policies 13.2.1, 13.10.8, 13.10.19, 13.10.20(a) and (b), 13.910<sup>198</sup>.21 and 13.910<sup>199</sup>.22 will be considered. The extent to which the existing boatshed and slipway are consistent with the direction in these policies and whether the effects of any inconsistencies can be avoided,***

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<sup>196</sup> Hamish Doig (755.001)

<sup>197</sup> Kenneth R and Sara M Roush (845.006) and Port Underwood Association (1042.008)

<sup>198</sup> Eric Jorgensen 404.034

<sup>199</sup> Eric Jorgensen 404.034

*remedied or mitigated will be a significant factor in determining whether a new consent is granted.*

## Coastal Protection Structures

727. Policies 13.10.24 to 13.10.27 provide a subset of additional policies that apply only to coastal protection structures or works within the Coastal Environment. These policies provide additional guidance on these structures in relation to;

- Matters to be considered for new coastal protection structures or works (Policy 13.10.24);
- Preference of non-structural methods (Policy 13.10.25);
- Features that coastal protection structures and works must be able to demonstrate (Policy 13.10.26);
- Materials that will be discouraged (Policy 13.10.27).

728. Overall, the majority of submissions received were supportive of the policy suite for coastal structures and works as notified. The submission received in partial support or opposition to the policies as notified raised the following topic matters;

- Application of Policy 13.10.24(c) to extend to all infrastructure not just regionally significant infrastructure<sup>200</sup>
- The application of Policy 13.10.26(b) to the construction or operation of protection works<sup>201</sup>.
- Material used for coastal protection structures<sup>202</sup>
- Retrospective resource consent for existing structures<sup>203</sup>.

### **Assessment**

#### Application of Policy 13.10.24(c) to extend to all infrastructure not just regionally significant infrastructure

729. The submission from Spark requests (1158.025) amendment to Policy 13.10.24(c) to consider the need for coastal protection structures where all infrastructure is at risk, rather than just regionally significant infrastructure. I do not consider that this submission needs to be provided for within this Policy. As all coastal protection structures require resource consent, the need for works relating to other infrastructure, which is not regionally significant, could be considered through clause (b) of this policy that provides for such works to be considered appropriate to

<sup>200</sup> Spark (1158.025)

<sup>201</sup> Te Atiawa o Te Waka-a Maui (1186.077)

<sup>202</sup> Douglas and Coleen Robbins (640.008), Glenda Vera Robb (738.011) and Melva Joy Rob (935.008) and Judy and John Heelstrom (688.138)

<sup>203</sup> Judy and John Heelstrom (688.138)



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justify a community need. In some circumstances there may be a community need to protect other infrastructure that would be considered under this clause. For this reason, I recommend that the submission by Spark is rejected.

### The application of Policy 13.10.26(b) to the construction or operation of protection works

730. I agree with the submission of Te Atiawa (1186.077) that Policy 13.10.26(b) is unclear in its application. The Policy applies to the coastal protection structure and works as outlined at the start of the policy, but agree that wording could be improved to make the application of clause (c) of this Policy easier to understand by Plan users and decision makers. For this reason, I recommend that the submission is accepted and amendments to Policy 13.10.26(b) are undertaken according to my recommendation below.

### Retrospective resource consent for existing structures

731. In response to the submission of Judy and John Hellstrom (688.138), it is noted that policies relating to coastal protection structures do not direct that existing structures will be required to obtain resource consent. This would be at the discretion of the Council, through enforcement processes if applicable, or through the reassessment of resource consents when they expire. Coastal permits can be issued for a limited time so that effects of activities, especially within sensitive environments such as the coastal marine area, can be assessed over time. As outlined within the explanation to the policy, matters that are relevant may change over time, including natural character, amenity values and public access, and they require the same level of consideration for existing structures as for any new proposed structures.

732. For these reasons, I recommend that the submission by Judy and John Hellstrom (688.138) is rejected.

### **Recommendations**

733. In light of the assessment above, I recommend that the Policy 13.10.22 is amended to;

***Policy 13.10.26 – Any proposal for coastal protection structures or works shall demonstrate that:***

***(y) the design, construction and placement of the coastal protection structure will not lead to any of the following effects (either in a temporary, permanent or cumulative manner):***

***(i) undermining of the foundations at the base of the structure;***

***(ii) erosion behind or around the ends of the structure;***

***(iii) settlement or loss of foundation material;***

***(iv) movement or dislodgement of individual structural components;***

***(v) the failure of the coastal protection structure should overtopping by water occur;***

***(vi) offshore or longshore loss of sediment from the immediate vicinity;***

***(vii) any increase in the coastal erosion posed to the coastline in question; and***

(z) *any effects of the [coastal protection structure](#)<sup>204</sup> or work, including effects on water currents, wave action, sediment transport and deposition processes, do not adversely affect waahi tapu sites, natural processes, ecological or amenity values of the coastal marine area beyond the site of the work.*

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<sup>204</sup> Te Atiawa o Te Waka-a Maui (1186.077)

# Matter 7 - Disturbance of Foreshore and Seabed

## Background

734. Disturbance of the foreshore and seabed is managed within the MEP through the following provisions;

- Issue 13G,
- Objectives 13.11, 13.12a and 13.12b, and 13.13
- Policies 13.11.1 – 13.11.8
- Policies 13.12.1 – 13.12.2
- Policies 13.13.1 – 13.13.9
- Methods 13.M.17 – 13.M.18 within Volume 1 Chapter 13.

735. The layout of this section of the plan provides for objectives and policies relating to three activities, namely;

- Reclamation and Drainage (Objective 13.11 and Policies 13.11.1 -13.11.8)
- Disposal and Deposition (Objectives 13.12a, 13.12b and Policies 13.12.1-13.12.2)
- Disturbance of the Foreshore and Seabed not elsewhere provided for (Objective 13.13 and Policies 13.13.1 - 13.13.9)

736. In line with this framework, my assessment of submissions will be broken down to address each activity type.

## **Reclamation and Drainage**

737. The majority of submissions received on the proposed provisions relating to reclamation and drainage supported the provisions as notified.

738. All submissions received in relation to Policies 13.11.3, 13.11.5, 13.11.6, 13.11.8 supported the policies as notified.

739. The submissions that opposed the provisions, or sought amendments to the provisions raised the following topic matters;

- The absence of provisions addressing De-reclamation<sup>205</sup>
- Councils approach to reclamation seaward of the coastal marine area<sup>206</sup>

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<sup>205</sup> EDS (698.084)

<sup>206</sup> Forest and Bird (715.288)

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- The need to expand the policy to provide for the development of Ports and Marinas<sup>207</sup>
- Matters for consideration for reclamation of drainage of the coastal marine area<sup>208</sup>.
- Consideration of land based alternatives<sup>209</sup>
- The provision of public access on reclaimed land<sup>210</sup>.

740. I will address each of these submission topics with the assessment below, and then provide overall recommendations in relation to the provisions that apply to reclamation and drainage.

The absence of provisions addressing De-reclamation

741. EDS (698.084) submit that this section for the MEP does not include provisions addressing De-reclamation and the precautionary approach, and submits that these provisions are required to give effect to Policies 3 and 10 of the NZCPS.

742. De-reclamation is the return of reclaimed land to foreshore and seabed. De-reclamation is encouraged by the NZCPS within Policy 10, where it would restore natural character and resources of the coastal marine area and provide for public open space. De-reclamation is a possible mitigation technique and feasibility will vary for case to case<sup>211</sup>. The NZCPS guidance states that in applying the NZCPS to regional policy statements and plan preparation, implementing Policy 10 involves (in relation to de-reclamation of land): *“Identifying any reclaimed land that could be considered redundant and assess its suitability for de-reclamation (de-reclamation is a possible mitigating technique—for example, to create more public and useful open space, or to rehabilitate degraded environments.”*

743. The MEP is required to give effect to the NZCPS. Given that there is a clear direction in the Policy 10(4) NZCPS that de-reclamations should be encouraged, I consider that this should be reflected within the policies of the MEP. I agree within the submitter that the MEP as notified is silent on de-reclamation.

744. I am aware that there is little reclamation that has been undertaken within Marlborough, and therefore there is likely to be limited circumstances where de-reclamation will be considered. However, this does not mean that it should be excluded from the MEP.

745. I consider that from the NZCPS there is an obligation for the Council to periodically review and assess any reclaimed land, to identify if it could be considered redundant, and if so, assess its suitability for de-reclamation. An assessment would require determination of the following matters;

- if the land is redundant,

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<sup>207</sup> Port Marlborough (433.058)

<sup>208</sup> Eric Jorgensen (404.036) and EDS (698.009), EDS (698.086), Federated Farmers (425.234), Burkhart Fisheries Limited and Lanfar Holdings (4) Limited (610.09), The Fishing Industry Submitters (710.042), Legacy Fishing Limited (906.012) and PauaMAC 7 Industry Association (1038.011), Friend of Nelson Haven and Tasman Bay (716.169),

<sup>209</sup> Eric Jorgensen (404.036) and EDS (698.009)

<sup>210</sup> Port Marlborough (433.059), Port Marlborough (433.059)

<sup>211</sup> NZCPS 210 Guidance Note: Policy 10: Reclamation and de-reclamation, DOC May 2013 pg 17

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- its suitability for de-reclamation,
- whether de-reclamation will restore natural character or resources of the coastal environment and
- whether de-reclamation would provide for public open space.

746. I recommended that a new policy is included within Chapter 13 of the MEP to provide for, and encourage, de-reclamation of redundant reclaimed land. The addition of this policy will not require any subsequent change to the Rules contained within any of the Zones within the coastal environment. Any de-reclamation activity would fall as a Discretionary Activity within all zones, as it is an activity not listed within any of the zones as a Permitted, Controlled, Restricted Discretionary or Prohibited Activity. The wording of the recommend Policy is included within my recommendations at paragraph 773 below.

747. EDS also submit that the provisions relating to reclamation and drainage activities should address the precautionary approach in order to give effect to Policy 3 of the NZCPS. I do not consider that it is necessary to have a policy that relates specifically to the precautionary approach.

748. As outlined within the NZCPS guidance on Policy 3 'consent applicants are required to provide an appropriate level of assessment of potential environmental effects (RMA section 88 and Schedules 1 and 4). As part of this assessment, applicants would also be expected to consider relevant precautionary policies and other provisions, and evidence of this consideration would be submitted with the proposal. Where the precautionary approach is relevant, this assessment can involve seeking sufficient evidence that an activity will not create significant adverse effects, despite there being scientific uncertainty, before the activity or modified activity may be approved'<sup>212</sup>.

749. As required by Policy 13.11.1 of the MEP, all proposals to reclaim or drain the coastal marine area will require assessment through the resource consent process. For these reasons, I consider that the policies of the MEP provide a suitable avenue for the precautionary approach required by the NZCPS to be adopted, if required through the resource consenting process. I therefore recommend that the submission of EDS in relation to this part of their submission is rejected.

### Councils approach to reclamation seaward of the coastal marine area

750. One submission was received from Forest and Bird questioning the approach that council would take to reclamation seaward of the coastal marine area. RMA provides jurisdiction to Councils to manage the Coastal Environment to the boarder of the Coastal Marine Area (See Figure 3).

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<sup>212</sup> NZCPS 210 Guidance Note: Policy 3: Precautionary approach, DOC May 2013 pg 7

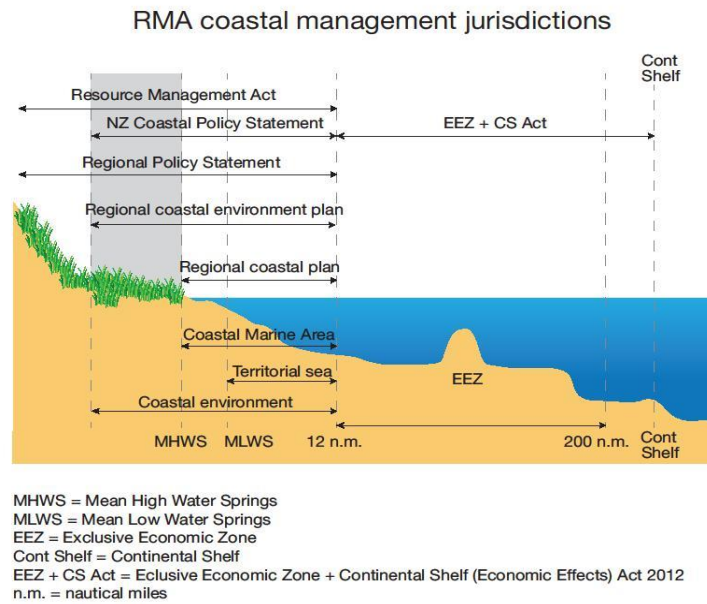


Figure 3: RMA Coastal Management Jurisdictions (Source: Department of Conservation)

751. The Council therefore does not have the jurisdiction to control reclamation and drainage seaward of the coastal marine area. For this reason I recommend that the submission of Forest and Bird is rejected.

The need to expand the policy to provide for the development of Ports and Marinas

752. PMNZ opposes Policy 13.11.2 on the basis that it considers that this policy is retrospective in nature and does not acknowledge the Marina zoned area of Waikawa Bay in which a Marina is yet to be developed. They also consider that Policy 13.11.2 does not provide for development activities in the Port Zone.

753. Policy 13.11.2(c) states that reclamation and drainage should be avoided unless the works are for the operational needs of Ports in Port Zones, or Marinas in Marina Zones. It is therefore relevant to turn to Polices 13.17.3 and 13.17.4 of the MEP that outline the operational requirements of the Port and Marina Zones, that are required to be recognised and provided for.

754. These operational requirements include buildings and structures (Policy 13.17.3(d), 13.17.4(g)), and other permitted activities that have an operational need to be located within the Port or Marina.

755. I do not consider that it is necessary to make reference to 'development' within this Policy, as if read in conjunction with the relevant polices in the MEP (as directed by the Policy) reclamation and drainage for new activities within the Port and Marina Zones, provided that they are for the operational requirements of the zone, are provided for under this Policy. For these reasons I recommend that the submission is rejected.

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Matters for consideration for reclamation of drainage of the coastal marine area

756. The majority of submissions received in relation to reclamation and drainage were received in relation to Policy 13.11.4 (eleven in total). This Policy outlines the matters to be considered when an application is made for resource consent to reclaim or drain the coastal marine area.
757. Friends of Nelson Haven and Tasman Bay (716.169) submit that Policy 13.11.5 is not sufficiently to manage the effects of climate change, and should allow for 'managed retreat' and land inward migration of coastal habitats. They request that the explanation to the policy is amended to provide more detail of the effects of sea level rise.
758. I consider that the detailed information, as outlined within the submission of Friends of Nelson Haven and Tasman Bay, regarding sea level rise and its potential effects is too targeted. This information is detailed and would need to be subject to a peer review for scientific accuracy, and could be subject to change over time. As noted within the submission a comprehensive assessment of the implications of Policy 13.11.5 must be undertaken that is site specific. Given that resource consent is required for reclamation and drainage (Policy 13.11.2) and that Policy 13.11.5 requires design taking into account coastal processes and sea level rise, this process will enable up to date, and relevant assessment of any proposal by appropriately qualified experts. For this reason I consider that the Policy as notified addresses the concerns of the submitter, and consider the request to include additional wording within the explanation of the policy be rejected.
759. EDS (698.086) are unclear as to why Policy 13.11.4(d) does not identify other high value and sensitive areas. In particular, why it does not identify effects on the marine environment given the policy relates specifically to the coastal marine area. They submit that the Policy should be amended to include additional criteria namely; natural character and landscape values, and the terrestrial, freshwater and marine environment.
760. While I acknowledge the submission of EDS, I consider that the additional criteria that they proposed to include within Policy 13.11.4 is already provided for and will be given due consideration within Chapter 13 of the MEP. In particular Policy 13.1.1(a) and (b) and 13.2.1(a) in relation to natural character and landscape values, and 13.1.1(c) and 13.2.1 (e) and (f) in relation to the terrestrial, freshwater and marine environment. In addition the objectives and policies contained within Chapters 6 – Natural Character, Chapter 7 - Landscape and Chapters 8 – Indigenous, and Chapter 15 – Resource Quality of the MEP also provide for consideration of these higher level matters. As stated within the introduction to Issue 13A, all applications for activities within the coastal environment are firstly subject to the provisions of 13A. I therefore do not consider that these require duplication within Policy 13.11.4, and as such recommend that the submission of EDS is rejected.
761. Federated Farmers (425.234) submit that as they understand it, barge loading sites are covered through the policies in the chapter for reclaiming or drainage of the coastal marine area. Federated Farmers submits that for the pastoral farming enterprises and forestry

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operations in the Marlborough Sounds, barge loading sites are a useful means for stock movements and shifting of logging. They submit that the consent application process should be straight-forward, as it benefits not only the user, but also the local Sounds community by taking some of the heavy vehicles off Sounds roads. Federated Farmers submits that an additional consideration of any consent application should be the 'impact on social and economic wellbeing'.

762. I do not consider the additional clause within Policy 13.11.4, as proposed by Federated Farmers is necessary. Clause (a) of Policy 13.11.4 gives consideration to the proposed reason for the reclamation/drainage and the benefits likely to arise from its use. This clause would enable consideration of the matters raised by the submitter and for this reason I recommend that the submission of Federated Farmers is rejected.

### Consideration of land based alternative

763. Eric Jorgensen (404.036) and EDS (698.009) submit that there is a contention between Policy 13.11.4(b) and 13.11.12(b). Policy 13.11.2 (b) states that ***if*** alternative land-based sites are available reclamation and drainage shall be avoided. Whereas the wording of 13.11.4 (b) suggests that even if an alternative land-based site is available reclamation or drainage could still be considered.
764. I concur with these submissions and agree that the two policies are contradictory. In reviewing the s32 report<sup>213</sup> it is clear that the intention of the Council within Policy 13.2.11 is to set thresholds that must be satisfied before an application for reclamation or drainage can be assessed against other provisions. The Policy sets a threshold that reclamation and drainage within the coastal marine area shall be avoided unless it can be shown that there are no land based alternatives.
765. It therefore follows that Policy 13.14(b) requires deletion on the basis that if land based alternatives are available, then reclamation of drainage should not be allowed. It cannot then follow that an assessment is made of why reclamation/drainage within the coastal marine area is preferred. For these reasons, in order to be true to the intention of the policy, and in line with the submission, I recommend that Policy 13.11.4(b) is deleted.

### The provision of public access on reclaimed area of the coastal marine area

766. Policy 13.11.17 requires that where practicable for the purposes of public access an esplanade strip shall be required to be set aside on reclaimed areas of the coastal marine area.
767. PMNZ (433.059) submit that within Policy 13.11.7 the phrase "where practicable" is not clear and can result in unfair and inconsistent decision-making. The policy should be reworded to identify the specific situations where public access areas do not need to be set aside.
768. It is not considered that it is necessary to include a detailed list of circumstances in which provision of public access would not be required. The explanation to the Policy outlines that

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<sup>213</sup> Section 32: Chapter 13 – Coastal Structures and Seabed Disturbance Pg 30



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regard should be had to circumstances outlined within Objective 9.2 of Chapter 9 – Public Access and Open Space (and subsequent Policy 9.2.1).

769. A cross reference to Policy 9.2.1 and the matters proposed to be included within Policy 13.11.7 by the submitter, reveals that all matters raised by the submitter fall within at least one of the criteria included within Policy 9.2.1 that outlines circumstances in which public access may be restricted. For these reasons I consider that the matters raised by the submitters are appropriately considered within Policy 9.2.1 and Policy 13.11.7, and this provides sufficient direction to direct plan users to these considerations. As such I recommend that the submission of PMNZ is rejected.
770. PMNZ (433.059) also seek that the Policy 13.11.7 only relate to new and not existing reclamations.
771. I concur with the submission of PMNZ, as I do not consider that it would be appropriate for Council (not that there is any indication that it would) to take retrospective action to require that an esplanade strip reserve set aside for public access. The wording of the s32 report in relation to this policy indicates that this policy is to be considered relative to the application being sort, and provides no indication of a Council intention for it to apply to existing reclaimed land. For these reason, and to improve clarify for plan users, I recommend that the submission of PMNZ is accepted and that the wording of Policy 13.11.7 is amended accordingly in line with their submission

### **Recommendations**

772. I recommend that Issue 13G, Objective 13.11, Policy 13.11.1, Policy 13.11.2 and Policy 13.11.3 are retained as notified.
773. I recommend that Policy 13.11.4 is amended to read;

***Policy 13.11.4 – Where an application is made for resource consent to reclaim or drain the coastal marine area, effects (including cumulative effects) on the following matters will be considered:***

- (a) the proposed reason for the reclamation/drainage and the benefits likely to arise from its use;***
- (b) ~~if land-based alternatives are available to the proposed reclamation/drainage, why the coastal marine area location is preferred;~~<sup>214</sup>***
- (c) the functional need for the activity to be carried out on the reclamation;***
- (d) the effects on:***
  - (i) navigation and safety of other users of the area, including whether the area is used for temporary boat anchoring;***
  - (ii) cultural values;***
  - (iii) the terrestrial environment, including an assessment of any earthworks necessary;***

<sup>214</sup> Eric Jorgensen (404.036) and EDS (698.009)

- (e) *whether coastal processes will be adversely affected by the structure; and*
- (f) *the operation of any existing activity or any activity that has been granted resource consent.*

774. I recommend that Policy 13.11.5 and Policy 13.11.6 are retained as notified.

775. I recommend that Policy 13.11.7 is amended to read;

***Policy 13.11.7 – Where practicable for the purpose of public access, an esplanade reserve or strip shall be required to be set aside on proposed<sup>215</sup> reclaimed areas of the coastal marine area.***

776. I recommend that Policy 13.11.8 is retained as notified.

777. I recommend that an additional policy is to address de-reclamation, and reads;

***Policy 13.11.X – Where the use of reclaimed land is found to be redundant, the reclaimed land will be assessed for its suitability for de-reclamation, considering the following matters;***

***(a) the lands suitability for de-reclamation;***

***(b) whether the de-reclamation would restore the natural character and resources of the coastal marine area; and***

***(c) whether the de-reclamation would provide for more public open space.***

*De-reclamation of redundant reclaimed land is encouraged through Policy 10(4) of the NZCPS. The NZCPS recognises that de-reclamation may only be appropriate and feasible in certain circumstances and requires assessment on a case-by case basis. The benefits of de-reclamation include the ability to create more public and useful open space or to rehabilitate degraded environments, and therefore it is appropriate that redundant reclaimed land is assessed for these purposes*<sup>216</sup>.

## Disposal and Deposition

778. Disposal and Deposition is managed by Objectives 13.12a and 13.12b and Polices 13.12.1 and 13.12.2

779. The intention of the management framework is to minimize the disposal of organic or inorganic material into the coastal marine area, and ensure that material dredged from the coastal marine area is appropriately disposed of.

### Submissions

780. All submissions received supported the Objectives 13.12a and 13.12b as notified. The only submission received that requested amendment, was in respect of Objective 13.12a.

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<sup>215</sup> Port Marlborough (433.059)

<sup>216</sup> EDS (698.084)

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781. Te Runanga O Ngati Kuia (501.058) submit that Objective 13.12a should be amended to indicate that the disposal of material in the coastal marine area should be prevented, but if that cannot be achieved minimised.
782. EDS (698.088) submit that the effects of deposition can be significant and in many cases permanent. This section entitled Disposal and Deposition fails to include a policy identifying areas where deposition should not be allowed (for example significant marine biodiversity areas).
783. The majority of submissions received in relation to Policy 13.12.1 outline what factors a proposal must demonstrate in order to dispose of dredged or other material within the coastal marine area.
784. Aquaculture NZ (401.146) and Marine Farmers Association (426.151) submit that if the material is derived from the sea, then it is unlikely to be appropriate to dispose of that material on land. They submit that the policy should be amended to read "where the dredged or other material is derived from the land, no reasonable and practicable alternatives are available on land."
785. Mr Eric Jorgensen (404.038) submits that he struggles with the concept that it may be permissible to allow dredged or other material to be disposed of in the coastal marine area regardless of the costs and practicalities to dispose of it to land. He submits that it should be avoided at all costs given the already compromised nature of the coastal marine areas in terms of settled and suspended sediments.
786. Te Runanga O Ngati Kuia (501.059) submit that reference to 'or other material' should be removed from policy 13.12.1, however no information is provided in the submission to support this.
787. EDS (689.089) submit that Policy 13.12.1 fails to identify a number of key factors relating to sediment control that should be considered in disposal proposals. This is necessary to ensure that the effects of the proposal are contained. They submit that the Policy should include additional clauses, namely;
- (a) Appropriate sediment retention methods are used to control spread or loss that cannot be addressed through location.
  - (b) The material disposed exhibits the same characteristics to the material at the disposal location
  - (c) The material is free from waste.
788. Aquaculture New Zealand (401.147) seek the deletion of Policy 13.12.2 for the following reasons;
- The Policy does not say it prohibits disposal in the CMA (although implied);
  - Contaminant has a broad meaning, some of which are harmful, others not. No policy reason for prohibiting the disposal of non-harmful contaminants;

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- Material containing a contaminant is a contaminant, so there is duplication within the policy itself;
- Presume this is an example where use of the word "avoid" does not mean avoid; and
- This duplicates Issue 15A and associated policies, which address discharge of contaminants into water, including coastal water.

### **Assessment**

789. In response to the submission by EDS (698.088), I refer to the Policies contained under issue 13A of the plan, in particular Objective 13.1.1. This objective identifies areas of the coastal environment where adverse effects from activities must be avoided, and this includes areas of significant marine biodiversity. All activities that involve that dispose of material into the coastal marine area will require resource consent as a discretionary activity. Through this process, all activities within the coastal environment are subject firstly to assessment under the provisions contained under issue 13A, and then subject to the provisions relating to the particular activity. For this reason I do not consider that an additional policy is required, as this would effectively result in the duplication of policy within Chapter 13. I therefore recommend that the submission 698.088 from EDS is rejected.
790. In response to the submission of Te Runanga O Ngati Kuia (501.059), given the absence of reasoning for the requested amendment with the submission, I have assumed that the submitter is concerned about impacts of disposal or deposition of material on the environment and cultural values. I acknowledge the intention of the submission, however I consider that the considerations contained within Policy 13.2.1, will ensure that any dredging or disposal activity will occur only when it can be demonstrated that the activity can recognise and provide for, or otherwise adverse avoid, remedy or mitigate adverse effects of the activity on the values identified within the policy, including the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waai tapu and other taonga. I therefore consider that the provisions as notified will achieve the outcomes sought by the submitters, and as such recommend that their submission is accepted in part.
791. I acknowledge the submission of Mr Eric Johnson, however in light of the above I cannot see a reason to prohibit the activity, provided that the adverse effects of disposal activities can be managed. This outcome is what is sought to be achieved through the implementation of these provisions as notified. For this reason, I recommend that Mr Johnson's submission is rejected.
792. It is noted that the s32 report states that 'very few applications have been made to date for sea-based disposal of dredged or other material within Marlborough's coastal marine area'. Council officer Mr Hawes has indicated that to his knowledge all dredging material (in particular in the Port of Havelock) has been used for the reclamation of land, and as such there have been no applications that have required 'disposal' of dredged material within the coastal marine area (pers. comms).

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793. As I see it the intention of Policy 13.12.1 is to provide guidance to plan users and decision makers as to when the disposal of dredged or other material within the coastal marine area may be appropriate. I also consider that this policy intended to apply to all forms of material, which may be derived from the sea or land. I therefore recommend that the submissions of Aquaculture NZ (401.146) and Marine Farmers Association (426.151) are rejected. The amendments to the policy as requested by these submitters would not make sense to its implementation given that dredged material will be derived from the sea.
794. Turning to the submission of EDS (689.089), I consider that that consideration of sediment dispersal from the activity will occur through consideration of clause (c) of Policy 13.12.1. I am unable to understand why this clause has been restricted to apply only in the case of dredged material, as I consider that the spread or loss of contaminants would be a relevant consideration when considering proposals for disposal of other material as well. For these reasons, and given the scope of the submission by EDS, I recommend that amendment to the Policy 13.12.1(c) is made to remove the words 'in the case of dredged material' as outlined within my recommendations at paragraph 806.
795. EDS also requests that an additional clause is added to require that the material disposed of exhibits the same characteristics to the material at the disposal location. While I appreciate the intention of this suggested amendment, I have reservations about how this would be interpreted and applied in practicality. The term 'characteristics' could involve the consideration of a huge number of factors, including type, makeup, size and quality of the disposal material. An assessment that requires the material to be the same is ambiguous and could be confusing and subject to contest. For this reason, I recommend that this element of the EDS submission is rejected.
796. Policy 13.2.2 requires that the disposal of contaminants, of material containing contaminants should be avoided. The submission by Aquaculture NZ seeks that this policy is deleted.
797. Section 2 of the RMA defines contaminant as;
- contaminant** includes any substance (including gases, *odorous compounds*, liquids, solids, and micro-organisms) or energy (excluding noise) or heat, that either by itself or in combination with the same, similar, or other substances, energy, or heat—
- (a)** when discharged into water, changes or is likely to change the physical, chemical, or biological condition of water;...
798. In light of this definition it flows that a containment will result in, or is likely to result in, a change to the condition of the water. In reality this is likely to occur with almost anything disposed of into the coastal marine area.
799. I believe it is clear from the explanation to Policy 13.12.2, which states that 'these effects may be significant, depending on the material being disposed of, the level of contamination, and the location and method of disposal', that the intention of the policy is to prevent material being

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disposed of that that may contain contaminants that could have an adverse effect on the coastal marine area.

800. I concur with the submission by Aquaculture NZ that this policy in its wording, is confusing, and technically, though the use of the term avoid, would require that no contaminants are allowed to be disposed of within the coastal marine area regardless of the effects of these contaminants.
801. It is evident that the intention of this Policy, and the submissions of both EDS and Aquaculture NZ all seek the same outcome. That outcome is to ensure that material disposed do not contain contaminants that may have an adverse effect on the coastal marine area.
802. Within the submission of EDS they submit that that a clause should be added to Policy 13.12.1 to ensure that the material that is to be disposed of is free from waste.
803. Waste is defined within Volume 2 - Chapter 25 of the MEP as; 'any material, solid, liquid, gas or radioactive, that is unwanted and or unvalued, and discarded, discharged, emitted or deposited in the environment in such volume, constituency or manner as to cause an adverse effect on the environment. It includes all unwanted or unusable by-products at any given place and time, and includes any other matter that may be discharged, accidentally or otherwise, to the environment. For the purposes of this Plan, waste does not include stormwater or treated human sewage'.
804. I consider that this definition is most likely to encompass materials for disposal anticipated by Policy 13.12.1 and that Policy 13.2.2 seeks to avoid. For this reason, I consider that a clause, as proposed by EDS to require a proposal to demonstrate that material deposited is free from waste will be appropriate to achieve the outcome sort by the policy and the submitters.
805. For these reasons, I recommend that Policy 13.12.1 is amended to include clause (d) to demonstrate that the material that is disposed of is free from waste, and the Policy 13.2.2 is deleted. These recommendations are outlined in full within paragraph 806 below.

### **Recommendation**

806. For the reasons outlined above I recommend that Policy 13.12.1 is amended to;

***Policy 13.12.1 – Proposals to dispose of dredged or other material in the coastal marine area must demonstrate that:***

- (a) no reasonable and practicable alternatives are available on land;***
- (b) the disposal will be undertaken in a location and at times of the day or year that will avoid (in the first instance), then remedy or mitigate adverse effects on:***
  - i. the growth and reproduction of marine and coastal vegetation and the feeding, spawning and migratory patterns of marine and coastal fauna;***
  - ii. navigational safety;***
  - iii. other established activities located in the coastal marine area that are likely to be affected by the disposal;***

- iv. *water quality, including an increase in water turbidity or elevated levels of contaminants;*
- v. *shoreline instability or coastal erosion on adjacent coastal land; and*

*(c) ~~in the case of dredged material~~, the site is located so as to avoid, as far as practicable, the spread or loss of sediment and other contaminants to the surrounding seabed and coastal waters through the action of coastal processes such as waves, tides and other currents-; and*

*(d) the material that is disposed is free from waste.<sup>217</sup>*

807. For the reasons outlined above I recommend that Policy 13.12.2 is deleted in its entirety.

## **Disturbance of the Foreshore and Seabed not elsewhere provided for**

### ***Submissions***

808. Objective 13.13 and Policies 13.13.1 – 13.13.9 provide the management framework to control the disturbance of the foreshore otherwise not provided for within this section of Chapter 13.
809. The majority of the submissions received in response to the provisions supported the provisions as notified. All submissions on Policies 13.13.4 and 13.13.9 supported those policies as notified.
810. Forest and Bird (715.300) seek that a prohibited Policy framework is provided for disturbance activities which are not specifically provided for within the policies under this chapter.
811. Te Runanga O Ngati Kuia (501.060) submit that Policy 13.13.1 is amended so that the word 'little' is replaced within 'not more than temporary' in relation to disturbance of the foreshore and seabed, that will be provided for as a permitted activity.
812. Port Clifford (1041.045) submit in relation to Policy 13.13.2 that the disturbance of the foreshore and seabed is ancillary to a number of port-related activities and is often necessary to maintaining the safe and efficient operation of the port, and that an additional matters should be provided for (d) for the safe and efficient operation of Activities in Port Zones.
813. Forest and Bird (715.305) support Policy 13.13.5 in part and accept that some opening of the river may be necessary to reduce the effects of flooding, however consider that for the purpose of increasing productive land through drainage and recreational pursuits should not be at the cost of ecological values such as retaining wetland area.
814. Te Runanga o Toa Rangatira (166.) submit that Policy 13.13.5 needs to consider iwi values first and should be supported and resourced by council.

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<sup>217</sup> EDS (689.089)

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815. Te Runanga O Ngati Kuia (501.061) submit that Policy 13.13.6 should remove the work 'realignment', however no information is provided in the submission as to the reasons for this submission.
816. Kenepuru and Central Sounds Residents Association (868.066) support Policy 13.13.6, but submit that the Policy should be amended to include extraordinary storm surge events as well as floods.
817. Forest and Bird (715.307, 308, 310) oppose Policy 13.13.7 in part as they consider that the disturbance of the seabed from unanticipated activities could have significant effects, especially in the sounds where even small changes could have adverse effects. The submitter however would accept the inclusion of this policy with amendments to provide stronger protection of the sea bed and request amendments to the Policy to read, "Only consider granting consent for any activities.... and the inclusion of clause (c) does not result in changes to the seabed contour within the Marlborough Sounds." Forest and Bird (715.308) also submit that the Marlborough Sounds should be excluded from Policy 13.13.8 unless necessary for an activity already provided for, or unless the amendment set in Policy 13.13.7 is accepted.
818. Te Runanga O Ngati Kuia (501.062) submit that Policy 13.13.7 should include as a requirement to consult with iwi.
819. Five submissions were received in relation to vehicle access and use of the foreshore which is controlled by Policy 13.3.3. Federated Farmers (425.235) considers that the use of motorised vehicles as part of farming activities may at times be necessary, for the purposes of moving stock and at times access to other parts of the farm. Federated Farmers submits that this needs to be appropriately recognised within the policy, and that the policy should be amended to only apply to 'recreational motorized vehicles'. Heritage New Zealand (FS 1048) oppose the submission by Federated Farmers on the basis that all motorised vehicles have the potential to damage historic heritage sites and their associated values along the foreshore. In addition, the policy as notified only discourages use, and does not preclude it.
820. Forest and Bird (715.303) support in part Policy 13.13.3 however consider that "discourage" is not sufficient to ensure the protection of significant coastal values, including the habitat of indigenous birds. This may include permanent and temporary restrictions on vehicle access along the foreshore.
821. Cape Campbell Farm (1051.003) have made submission regarding motorbike use in the coastal riparian strip between Marfell's Beach and further south, and the adverse effects that this use is having on the environment of this area. Primary concerns from the submitter relate to the number of users and lack of signage and information for users within this area.

### **Assessment**

822. While I agree with the intention of the submission by Ngati Kuia in relation to Policy 13.13.1, my concern is that the wording 'not more than temporary' suggests that there will be a restoration of the foreshore or seabed to the same condition it was prior to the activity



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occurring. This would be very hard to monitor and it may not be possible for disturbance to retain the exact condition of the foreshore or seabed following disturbance. For these reasons I consider that the wording of the policy as notified, better reflects the nature of disturbance likely to place, and is reflective of the permitted activity standards for foreshore and seabed disturbance contained within Rule 16.2.1 within the Coastal Marine Zone and identical standards within the Port, Port Landing and Marina Zones. For this reason I recommend that the submission of Ngati Kuia is rejected.

823. In response to the submission of Port Clifford, there is not information within the submission outlining the nature of the activities to which disturbance to the foreshore and seabed may be ancillary. I would anticipate that these activities would be those associated within the day to day operational requirements of the Port Zone, which are provided for as Permitted activities within Port Zone, supported by the Rules contained within Chapter 2 – 13.1. The Port Zone also contains standards that apply to permitted activities involving disturbance of the foreshore and seabed at Rule 13.2.2. If the submitter provides further information as the nature of activities they are concerned about, and how the MEP would restrict these activities, then I would be better able to consider fully the submission. At this time, I recommend that this submission is rejected.
824. In response to the submission of Te Runanga O Ngati Kuia (501.061) I am unable to provide a response given the absence of reasoning for the removal of the work 'realignment' with the submission. If the applicant is able to provide additional reasoning, then I would be happy to consider this at the time of the hearing.
825. In response to the submission by Kenepuru and Central Sounds Residents Association (868.066) I do not consider that the Policy 13.13.6 needs to be expanded to specifically include extreme storm surge events. The intention of the policy is to provide for activities within flooding events. A flood by its definition is 'an overflow of a large amount of water beyond its normal limits, especially over what is normally dry land'<sup>218</sup>. For this reason I see no reason as to why the current wording of the policy would not anticipate storm surge events and for this reason I reject the submission of the Kenepuru and Central Sounds Residents Association.

### Policy 13.13.7

826. I support the intention of the submission by Forest and Bird, however I consider that the MEP provides a suitable management framework to manage effects from activities. All activities provided for as 'permitted activities within the Coastal Marine Zone, Port, Port Landing Area and Marina Zones, are subject to standards that apply to all permitted activities that involve the disturbance of the foreshore and seabed. Activities that cannot comply with these standards will require assessment as a Discretionary Activity and be assessed as to the activities appropriateness through the resource consent process. Forest and Bird have raised concern about 'unanticipated activities' however have not provided any information as to what these activities may be. If activities are 'unanticipated' it follows that they would require assessment

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<sup>218</sup> Oxford Dictionary (flood)

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through the resource consent process. I do not consider that a prohibited status is appropriate, given that activities may not result in adverse effects to the coastal marine area. For these reasons I recommend that the submissions by Forest and Bird outlined above are rejected.

### Iwi Values

827. In response to the submission of Te Runanga o Toa Rangatira (166.030, 040 and 045), I consider that it is important to recognise the provisions listed under Issue 13A of the Chapter that identify objectives and policies that apply to all activities within the coastal environment generally. These provisions, namely Policy 13.2.1, state that an activity is only appropriate where it can avoid, remedy or mitigate adverse effects of (b) the relationship of Maori and their culture...'. For this reason I do not consider that an amendment to the Policy is required, as this would effectively result in the duplication of policy. I recommend that the submission of Te Runanga o Toa Rangatira is rejected.
828. The submission by Te Runanga O Ngati Kuia (501.062) to include an additional matter within Policy 13.13.7 to demonstrate that iwi have been consulted is recognised and the intention is supported. Policy 3.1.2 of the MEP states that an applicant will be expected to consult early in the development of a proposal (for resource consent or plan change) so that cultural values of Marlborough's tangata whenua iwi can be taken into account. Within the Coastal Environment Chapter of the plan, Policy 13.2.1 states that only activities that recognise and provide for, and avoid, remedy or mitigate adverse effects of recognised values which included (b) the relationship of Maori and their culture and traditions within their ancestral lands, waters, sites, waahi tapu and other taonga will be considered appropriate. For these reasons I consider the MEP provisions already provide for the outcomes sought by the submitter to occur, and as such there is no need for repetition within this policy of the MEP.

### Vehicle Access and Use of Foreshore

829. Turning to the submission by Federated Farmers, I can see no reason to limit the application of Policy 13.13.3 only to recreational motorised vehicles. All vehicles, regardless of who they are being used by, or what they are being used for, have the potential to damage the ecological values or cause safety concerns. This position is supported by the further submission of Heritage New Zealand, but also gives effect to Policy 20 of the NZCPS, that directs the control of 'vehicles' within the coastal environment, with the only exception provided in relation to emergency vehicles. I recommend that the submission of Federated Farmers is rejected.
830. In response to the submission by Forest and Bird, I agree with the intention of the submission, however I consider that there will be some cases in which vehicle access to beaches is limited and will result in limited effects, and therefore maybe permitted. The policy in its wording 'discourage' recognises the potential impact of vehicles in this sensitive environment and that there may need to be control of this activity with certain circumstances. As outlined within the s32 where there is the potential for identified values to be affected, this policy discourages the

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use of vehicles, and provides a policy framework on which the Council and the Department of Conservation will liaise to identify areas, and determine the most effective method for control (such as exclusion of access) if deemed necessary. This approach is consistent with the direction provided within NZCPS Policy 20. I consider that Policy 13.13.3 as notified is able to achieve the outcomes sort by the submitter, and therefore recommend that the submission is rejected

831. Two submissions were received that sort amendments to Method 13.M.18 that states that a Bylaw may be used to control the use of vehicles on the foreshore. Submissions were received from The Fishing Industry Submitters (710.043) and PauaMAC 7 Industry Association (1038.017) that seek additional wording to the Method to state: *If a bylaw is developed, further consultation will be undertaken to identify areas in which the bylaw would apply and conditions under which vehicle access would be restricted.*
832. A bylaw is made under the Local Government Act 2002 (LGA). Section 156(1) of the Local Government Act requires that when making a Bylaw under the LGA an authority must use the special consultative procedure if the authority consider that there is likely to be a significant impact on the public. It will be up to the Council at the time to consider, however it is likely that such a Bylaw could have a significant effect on areas where a Bylaw may seek to control vehicle access. I consider it is appropriate to leave this consideration to the Council at this time, and until such Bylaw is considered. For these reasons, I reject the submissions of The Fishing Industry Submitters (710.043) and PauaMAC 7 Industry Association (1038.017).
833. In response to the submission by Cape Campbell Farm (1051.003), as this submission relates to a specific area between Marfells Beach and further south, and current activities, it would be appropriate for the Council to examine this situation further. This could be an area that requires control of the use of vehicles through the application of a Bylaw, and this approach would be in line with method 13.M.8 as proposed within the MEP. I would recommend that the Council investigate this matter further, and in relation to the submission by Cape Campbell Farm I recommend that this submission is accepted in part.

### **Recommendation**

834. For the reasons outlined above I recommend that Objective 13.13, Polices 13.13.1 to 13.13.9 and Methods 13.M.17 and 13.M.18 are retained as notified.

## Matter 8 – Zoning

835. There were 32 submissions received on the Volume 4 – Zoning maps that relate to the coastal environment.

836. These submissions related to;

- Port Landing Areas (Proposed Zoning)
- Marina Zone (Extent of zone in Waikawa and Hastings)
- Shakespeare Bay
- Havelock

Each of these topic matters will be assessed within this section of the report below.

### Port Landing Areas

#### *Submissions*

837. Submission were received in response to identified and non-identified areas of Port Landing Area Zone requesting either rezoning, or amendment to extent of the zoning of the Port Landing Area Zone. These submission related to;

- Elaine Bay
- Oyster Bay; and
- Okiwi Bay

#### Elaine Bay

838. These submissions relate to Zoning Maps 65 and 103 for Elaine Bay.

839. The submissions requested;

- The rezoning of commercial wharf at Elaine Bay from Port Landing Area Zone to Port Zone<sup>219</sup>,
- Extension of the Port Landing Zone to include more of the coastal marine area and adjacent Road<sup>220</sup>.
- Extension Port Landing Area Zone to the west to better reflect the area occupied by the Port Landing activities within the bay<sup>221</sup>.

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<sup>219</sup> Aquaculture New Zealand (401.155, 156, 249,295, ) and Marine Farming Association (426.067,161, 285, 286) Goulding Trustess Limited 750.010 and 011, Just Mussels Limited and Tawhitinui Greenshell Limited 842.017 and 018 and Shellfish Marine Farms Limited 1150.001 and 012) – Opposed in Futher Submisison by Port Marlborough 946

<sup>220</sup> Aquaculture New Zealand 401.294 and Marine Farming Association 426.285)

<sup>221</sup> Port Marlborough 433.208

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840. Where the submissions have sought an extension of the zone to include more of the coastal marine area and adjacent Road, no plans have been provided to demonstrate the extent of this extension, or reasons as to why the extension of the zone is considered to be necessary.

### Oyster Bay

841. These submissions relate to Zoning Maps 77 and 139 for Oyster Bay.

842. The submissions requested;

- The rezoning of commercial wharf at Oyster Bay from Port Landing Area Zone to Port Zone<sup>222</sup>,
- Extension of the zone to include more of the coastal marine area, Open Space Zone and adjacent road<sup>223</sup>.

843. The submissions do not provide plans to demonstrate the extent of this extension or reasons why the extension is considered to be necessary. PMNZ (FS 946 and 960) have made further submissions that opposes the change of zone, however acknowledge that the area of the Port Landing Zone could be extended further into the coastal marine area.

### Okiwi Bay

844. These submissions relate to Zoning Maps 64 and 111 for Okiwi Bay.

845. The submissions seek the rezoning of the boat ramp at Okiwi Bay from Open Space 3 to Port Landing Area Zone<sup>224</sup>

846. The submissions do not provide plans to demonstrate the extent of the zoning sort or reasons why the rezoning is considered to be necessary.

## **Assessment**

### Elaine Bay and Oyster Bay

847. The s32 report states 'There are particular environmental benefits from having a specific zone for managing the operations of activities in Elaine Bay and Oyster Bay. Historically these areas have not been identified as requiring any specific operational management framework. However, these smaller port areas play an important role in providing for the commercial loading/unloading of marine farming and fishing produce, albeit on a limited scale compared with the ports at Picton and Havelock. Because of this and the more isolated environment within which these facilities operate, it is appropriate that the MEP include a specific management framework under which they can operate<sup>225</sup>.

848. In relation to the difference between Port and Port Landing Area Zones the s32 states that 'There are differences between the operational requirements provided for Port and Port

<sup>222</sup> Aquaculture New Zealand (401.155, 156, 296, 297 ) and Marine Farming Association (426.067, 161, 2287,288)

<sup>223</sup> Aquaculture New Zealand 401.294 and Marine Farming Association 426.285)

<sup>224</sup> Aquaculture New Zealand (401.155, 156, 159 ) and Marine Farming Association (426.067, 161,164)

<sup>225</sup> S32 Report: Ports and Marinas pg11

## Section 42A Report: Chapter 13 The Use of the Coastal Environment

Landing Area Zones. This is because the smaller ports are located in more sensitive environments, in areas with considerably less development than what has occurred in Picton and Havelock. Some land-based activities will also require consent, including certain forms of cargo processing, particularly where this has the ability to create adverse environmental effects and/or where servicing requirements exist.'

849. The Council through the MEP process and the s32 evaluation have considered the need for a management framework for these areas (where previously none existed) but have recognised the difference between these areas and the established Port Zones. The intention of the proposed management framework of the MEP in providing for Port Landing Area Zones, is to differentiate these areas from Port Zones, but to provide a management framework that is suited and provides more certainty and flexibility to these areas in terms of operational requirements.
850. As outlined within the s32 report, these identified Port Landing Areas are located within smaller more sensitive environments than those within the Port Zone. Therefore, it is considered appropriate, that where activities may have an adverse effect on the environment of these areas, and assessment is able to be made of the suitability of the activity.
851. It is pertinent to look at the difference between the permitted activities provided for within the Port Zone, and the permitted activities provided for within the Port Landing Area Zone. The activities provided for within the Port Zone and not within the Port Landing Area Zone are; Cargo processing; Passenger terminals and associated activities; Port engineering; Truck fuel facility; Boarder control; Maintenance, storage etc associated within marine farming or commercial fishing; Manual scraping of antifoul or bio foul; Maritime education or research facility; Port administration; Living accommodation for port staff, Transportation activity; Geotech bore drilling and dredging, and Discharge of contaminants to air from a range of activities.
852. The submissions of Aquaculture NZ and Marine Farming Association seek to provide for 'ship repair and maintenance' and 'transportation activities' as operational requirements within the Port Landing Area Zone as amendments to Policy 13.17.5. The submissions provide no detail as to why these changes are sort, or evidence to support that these activities have a need to be provided for within the Port Landing Area Zone.
853. Rule 13.1.21 states that as a Permitted activity within the Port Zone, Transportation activities include; The constitution on a road right of way or path; The construction of a railway, vehicle or trailer park; Manoeuvring and transit railway activity; Transit and maintenance; Bus station activity or vehicle rental operations. These activities have the potential to cause adverse effects when located within sensitive environments.
854. In addition, ship repairs have the potential to cause adverse effects on the environment through release of contaminants, noise, and associated activities and therefore it is considered that an assessment of these activities in these more sensitive areas is appropriate.

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855. As outlined above there is clear direction within the MEP to provide for some 'port like' facilities within Elaine Bay and Oyster Bay given the use of these facilities, but that there is a need to recognise the more sensitive environments in which these ports are located.
856. I acknowledge that at this time I have not visited the proposed Port Landing Area zones of Elaine Bay or Oyster Bay, and as such I have not witnessed that nature of activities that take place within this Zone.
857. I did plan to visit the sites of Elaine and Oyster Bay on the 20-21<sup>st</sup> of February 2018, however my visit was required to be rescheduled with due to the onset of Cyclone Gita. I will however be visiting the sites prior to the hearing, and should these visits result in any changes to the contents of this report, I will provide this by way of a written update prior to the hearing.
858. I have however viewed both bays from Google Earth and Google Street View, and am satisfied that the activities that take place within these 'port areas' are of a much smaller scale and intensification than the existing 'Port zoned' sites within Picton and Havelock.

### ***Recommendation***

859. For these reasons I consider that the activities that would be provided for as permitted activities within the Port Zone, have the potential to create adverse effects on sensitive smaller environments within Oyster and Elaine Bay. I therefore recommend that the zoning status of the Port Landing Area Zoning of Elaine Bay and Oyster Bay remain as notified.

### Extension of Port Landing Zone in Elaine Bay

#### ***Assessment***

860. While I have not visited Elaine Bay, it is clear on Google Maps that there is a Wharf and marina that extends to the south of the main area of the wharf.



Figure 4 Wharf and Marina located at Elaine Bay (Source: Google Earth)

861. The submissions seek an extension of the zone to include more of the coastal marine area and adjacent road. The submission however have not provided no to demonstrate the extent of this extension, or reasons why the extension is considered to be necessary.

862. The proposed zoning of Elaine Bay within the MEP is shown below in Figure 5.



Figure 5: Extract from MEP Zoning Map 65 showing the extent of proposed Port Landing Area Zone (in Pink) at Elaine Bay.



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863. I have assumed that the submitters seek the inclusion of the small area of the Coastal Marine Zone between Elaine Bay Road, and the identified Port Landing Area Zone on the western side of the port for inclusion as Port Landing Area Zone.
864. There are no reasons identified within the s32 report as to why this area has been excluded from the zoning. The intention of providing the Port Landing Area Zone in the MEP is to provide a management framework to these areas that have been identified as important Port Landing Areas, and therefore the zoning should be reflective of the area in which port landing activities take place. The Port Landing Area Zone anticipates operation requirements of the zone which include wharves and mooring structures that exist within this area of the coastal marine area. While I appreciate that the wharf extends out to the area that is zoned Port Landing Area, I consider that it would be reasonable to anticipate that activities would need to occur within the Coastal Marine Zone, on the landward side of this wharf, to facilitate marine activities (ie maintenance of wharfs etc).
865. In response to the submission requesting extension into the road, given that I have not been provided within plans to demonstrate the extent of this extension, I have been unable to fully assess the implications of this rezoning.
866. For these reasons, I considered it would be more efficient for this area to have a management framework that applies to the whole area of the existing facility and is reflective of the existing operations at Elaine Bay. I consider that it appropriate that the small area of the Coastal Marine Zone between Elaine Bay Road, and the identified Port Landing Area Zone on the western side of the port is included within the Port Landing Area Zone, in line with the submission of the PMNZ.

### ***Recommendation***

867. For these reasons, I recommend that map 65 and Map 103 of the MEP is amended to rezone the strip of Coastal Marine Zone located between the Port Landing Area Zone and Elaine Bay Road, to Port Landing Area Zone.

### Extension of Port Landing Zone in Oyster Bay

868. The submitters<sup>226</sup> request amendment to expand the size of the Port Landing Area Zone to include more of the Coastal Marine Zone, the Open Space Zone and the adjacent road within Oyster Bay. The submissions do not provide plans to demonstrate the extent of this extension or provide reasons why the extension is considered to be necessary. Port Marlborough (FS 946 and 960) have made further submissions in support of the Port Landing Zone being extended further into the Coastal Marine Zone.
869. The proposed MEP zoning map for Oyster Bay is provided below

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<sup>226</sup> Aquaculture New Zealand 401.294 and Marine Farming Association 426.285) Port Marlborough (FS 946 and 960)

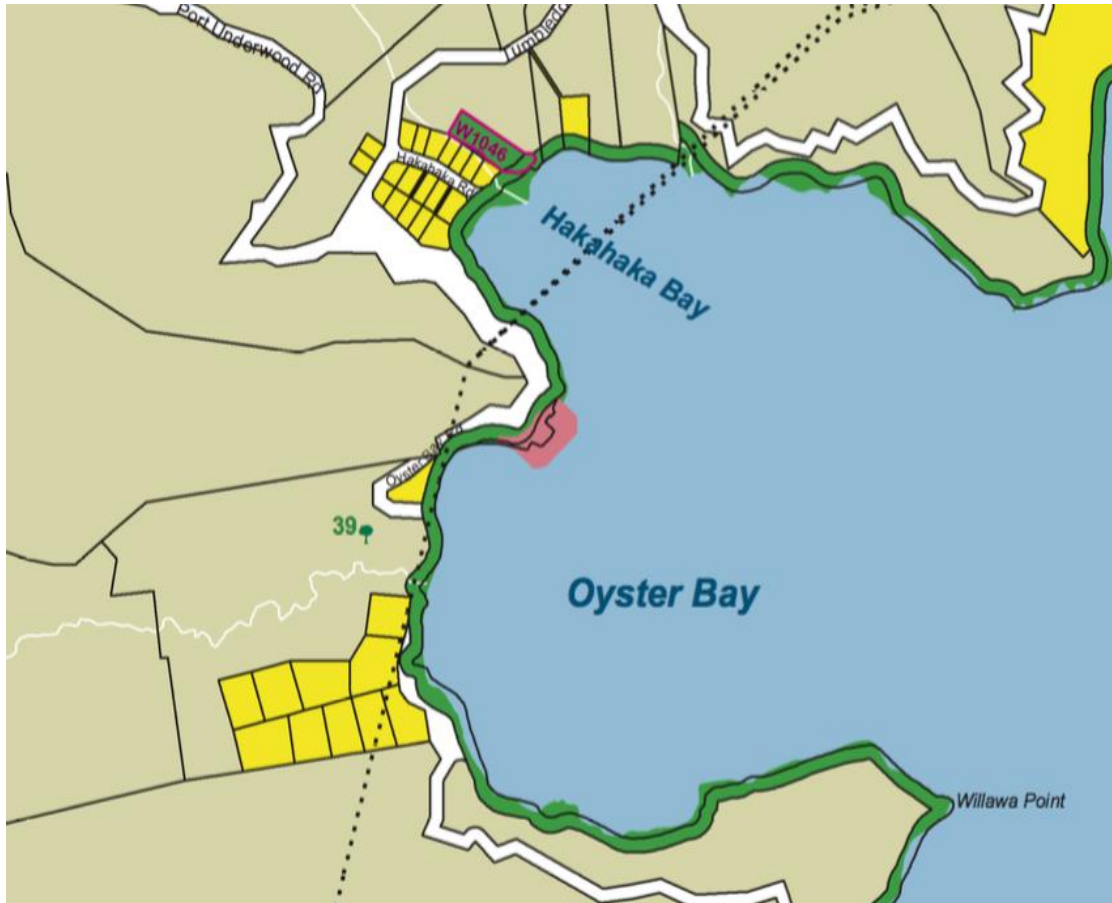


Figure 6: Extract from MEP Zoning Map 77 showing the extent of proposed Port Landing Area Zone (in Pink) at Oyster Bay.

870. An image obtained from Google Earth provides an idea of the extent, and nature of the area zoned in the MEP for Port Landing Area Zone.

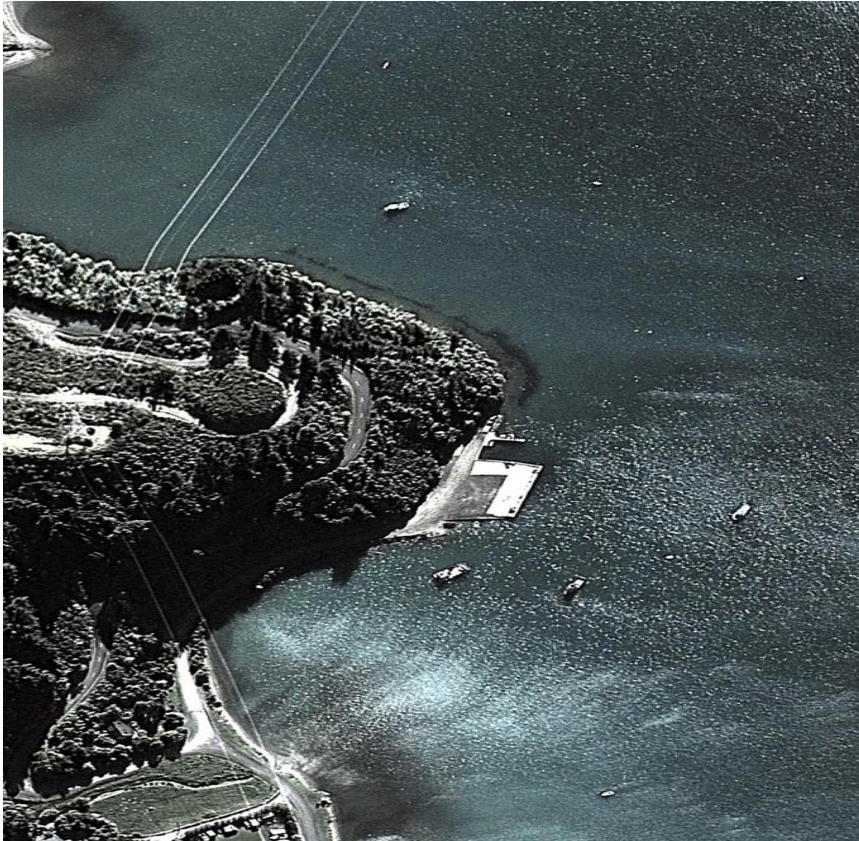


Figure 7: Oyster Bay Port Landing Area Zone (Source: Google Earth)

871. As I have not visited Oyster Bay, I do not have extensive knowledge of the area to be able to assess any likely affects that could arise from the rezoning of the Open Space Area between the road and the Port Landing Area Zone, for Port Landing Area.
872. The current extent of the Port Landing Zone reflects the physical extent of the land currently used for that purpose, based on the Councils aerial photography.
873. The land between the zoned Port Landing Area Zone and the Road is very steep, and as such would unable to be used for Port Landing Area purposes without the need for significant earthworks and vegetation clearance. This area is zoned Open Space 3 as Sounds Foreshore Reserve.
874. At this time, the submitters have not provided any information as to the reason that additional land within this area is required to be zoned Port Landing Area Zone. It also appears that there may presently be an underutilisation of the land used in this zoned (to be confirmed within a site visit) as Port Landing Area.
875. For these reason, I recommend that the submissions to extend the extent of the Port Landing Area zone at Elaine Bay are rejected.

Okiwi Bay

**Assessment**

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876. Turning to the submissions<sup>227</sup> to rezone the boat ramp in Okiwi Bay to Port Landing Area, I have not been provided at this time any evidence as to the reasons, or nature of activities being provided for at Okiwi Bay to warrant the rezoning of this area to Port Landing Zone.
877. As with Elaine Bay and Oyster Bay, I have also not visited Okiwi Bay, however from the images I have seen on both Google Earth the nature of operations within this Bay appears to be of a significantly more limited scale than other identified Port and Port Landings Area Zones. In particular I note that I cannot see any obviously commercial activity operations within the area of the boat ramp.



Figure 8: Image of Okiwi Bay Boat Ramp (Source: Google Earth)

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<sup>227</sup> Aquaculture New Zealand (401.155, 156, 159) and Marine Farming Association (426.067, 161,164)



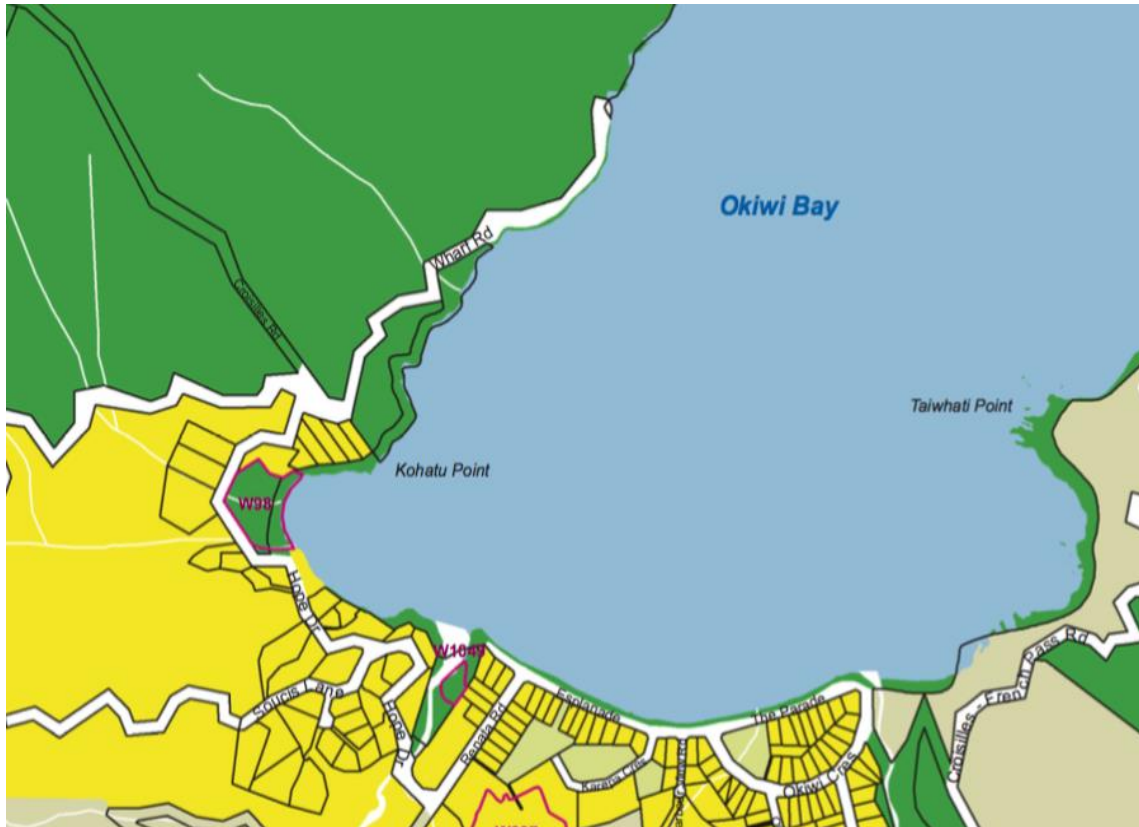


Figure 9 - Extract from MEP Zoning Map 64 for Okiwi Bay. The Boat Ramp is located at the northern end of Wharf Road

878. Given its sensitive environment, providing for a Port Landing Zone, could allow as permitted activities a range of activities not anticipated within such an environment that may result in adverse effects.

**Recommendation**

879. For these reasons, I recommend that the submissions to rezone the boat ramp at Okiwi Bay as Port Landing Area Zone are rejected, and that Map 64 and 11 of the proposed MEP remain as notified.

**Marina Zone**

Zoning Map 35 - Picton

**Submissions and Assessment**

880. PMNZ (433.207) seeks that the Open Space One Zone land immediately adjacent to the Marina Zone at Picton (near 39 and 41 Waikawa Road) be zoned Marina Zone in order to reflect the activities taking place on this land. A strip of Open Space One Zoned land will be retained between the Marina Zone and the Urban Residential 2 Zone.



Figure 10 - Extract from MEP Zoning Map 35 for Picton Marina (Marina shown in Blue).

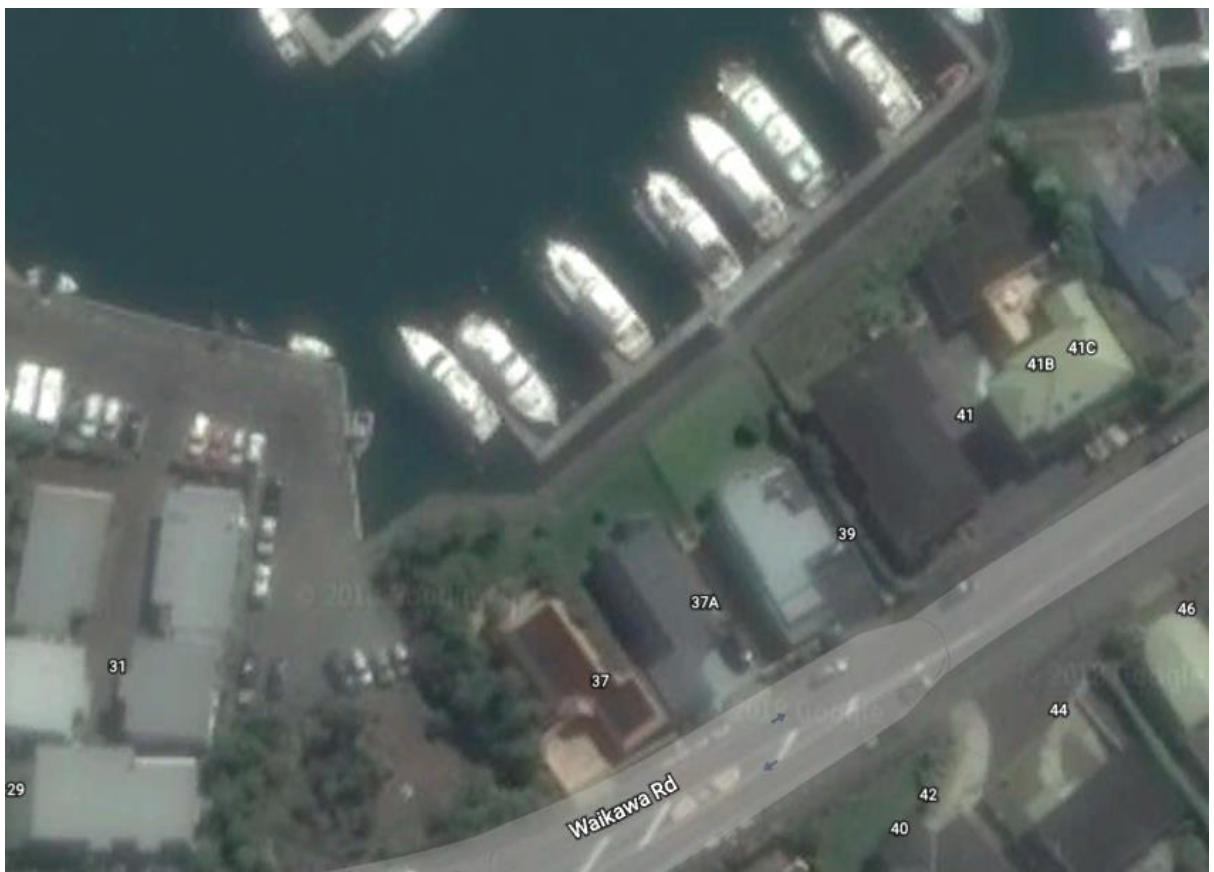


Figure 11 - Image of Picton Marina (Source: Google Earth)

881. Having visited the area, and reviewing Google Earth, I can ascertain that there is an area of water that is zoned Open Space 3 either side of the jetty on which boats are moored within the marina. I concur with PMZN that the rezoning of this area would better reflect the activities being undertaken on this land, and would enable PMNZ to undertake works (ie maintenance) to the marina facilities within this area.

882. This area is owned by PMNZ, and that the proposed rezoning would not effect on the zoning of private property, namely the residential properties of 39 and 41 Waikawa Road.

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883. The intention of the Open Space 1 Zoning of this area is to provide for public access around the Marina, in line with Policy 9.1.1 of the MEP. The removal of Open Space 1 zoned land in this area may hinder Councils intention to enhance public access around the Marina. This intention is supported by Rule 24.1.18 of the Plan that requires that where land zone Urban Residential 2 adjoins the Picton Marina and is to be subdivided, an esplanade reserve of esplanade strip of 3m must be provided.
884. For this reason, I recommend that an area of Open Space 1 Zone (at least 3m in width) is provided between the Marina Zone and the Urban Residential 2 Zone, that reflects the walkway that is currently located in front of the properties at 39 and 41 Waikawa Road, and to ensure that the provision of public access around the marina can be retained and enhanced.
885. I consider that amendment to the zoning would be effective in achieving the purpose of the Act. Zoning is a method that is used to apply a suitable management framework to the areas. This area is part of the existing Marina, and to provide the operation of this marina within this framework will assist in achieving the objectives and polices of the MEP. The proposed zoning change is also considered efficient as it will enable Marina activities to take place within this area without the undue time and cost of resource consenting applications. The re-zoning is likely to have no associated effects on neighbouring residential properties, and will ensure that public access is able to be retained and enhanced around the marina.

### ***Recommendation***

886. I recommend that MEP Zone Map 35 are amended, to provide for Marina Zone within the water area of the Marina as depicted in Annexure B – Picton – Marina Zone in the submission of PMNZ (433).
887. I also recommended as submitted by PMNZ the that a strip of Open Space One zoned land at least 3m in width is retained between the Marina Zone and the Urban Residential 2 Zone.

### Zoning Map 41 – Waikawa Marina

### ***Submissions***

888. PMNZ (433.205, 206) seeks that the zone boundary of the Marina Zone is expanded to reflect the actual footprint of in-situ marina reclamations (that continue at a 2:1 gradient below water), and the entry and exit areas to the marina. The increase of zoning boundaries is requested to provide for maintenance activities, which may from time to time be required, that are enabled by the Marina zone (provided for as permitted activities), but not by the Coastal Marine Zone (e.g. maintenance dredging).
889. An extension of 20m beyond the visible structures of the marina is requested. The amendments are depicted on the Waikawa Bay Zone plan shown in Annexure B of the submission of PMNZ (433).

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890. PMNZ (433.204) also seeks that the following properties are re-zoned from Urban Residential 2 Zone to Marina Zone in accordance with the Plan attached in Annexure B of PMNZ's submission;
- The narrow parcel of land beside Endeavour Stream;
  - 64 Beach Road (Lot 30 DP 2806)
  - 64A Beach Road (Lot 31 DP 2806)
  - 64B Beach Road (Lot 32 DP 2806)
  - 66 Beach Road (Lot 33 DP 2806)
  - 68 Beach Road (Lot 34 DP 2806)
  - 70 Beach Road (Lot 35 DP 2806); and
  - 72 Beach Road (Lot 1 DP 371221).
891. The zoning of these properties as Marina Zone is requested to enable to expansion of marina activities within these properties. PMNZ submits that this will be a logical expansion of the zone in this location. PMNZ has not however provided any information within their submission as to the nature of the activities that would be proposed to take place within this area, or demonstrated that there is a need for this land as an expansion on the Marina zone.
892. PMNZ considers that the narrow strip of land zoned Open Space 3 adjacent to the Endeavour Stream will be very difficult to administer as Open Space Zone given its size, and considers the Marina Zone will be more appropriate in this location.
893. The proposed Zoning contained within the MEP is shown below at Figures ...



Figure 12 - Extract from MEP Zoning Map 41 for Waikawa Marina (Marina shown in Blue).



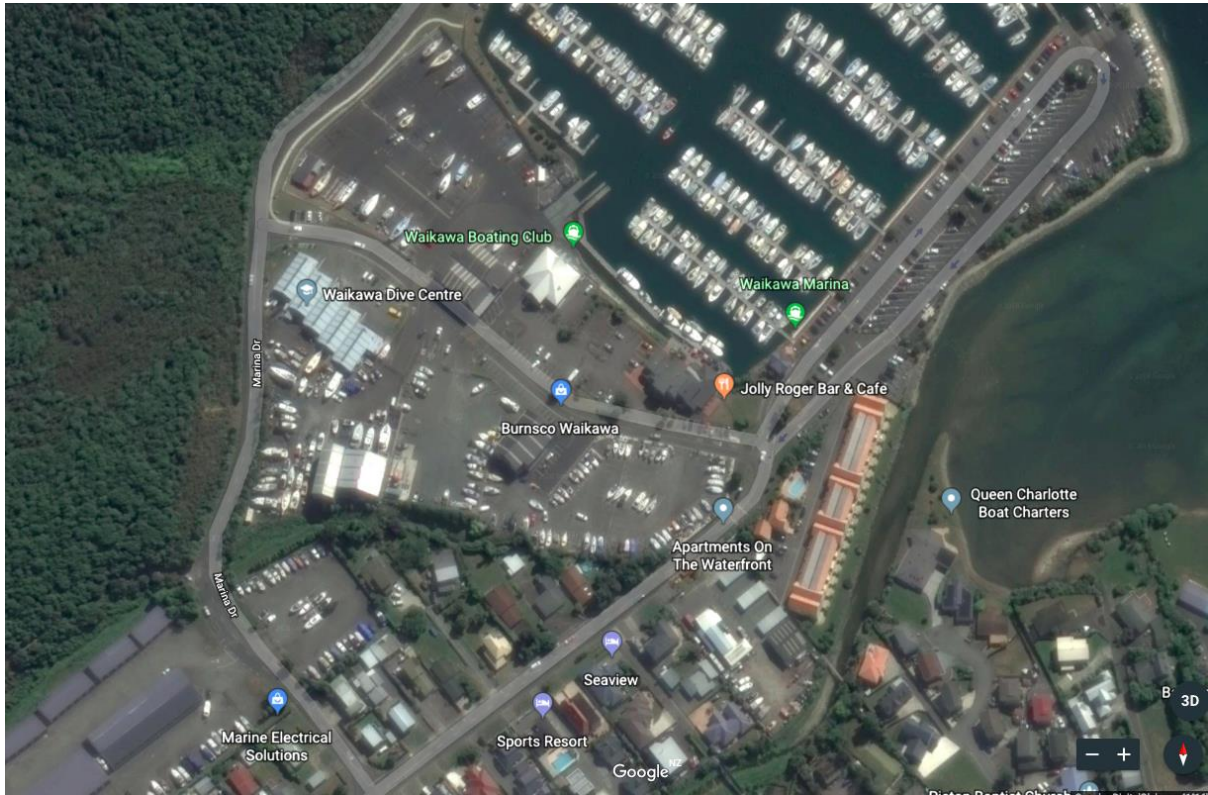


Figure 13 - Image of Waikawa Marina (Source: Google Earth)

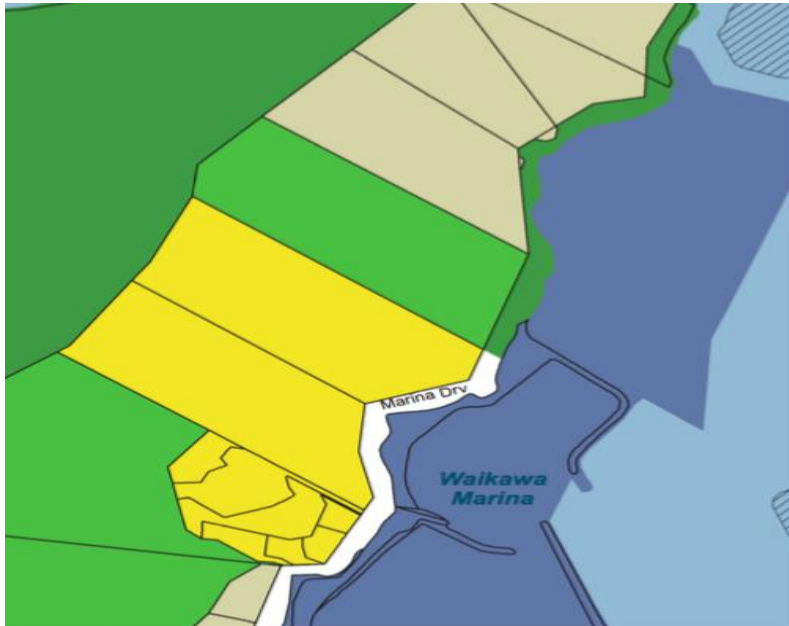


Figure 14 - Extract from MEP Zoning Map 43 for Waikawa Marina (Marina shown in Blue).



Figure 15 - Image of Waikawa Marina (Source: Google Earth)

### **Assessment**

#### Extension of the Marina Zone to provide for in-situ structures

894. In regard to the extension of the Marina Zone to include the below water extent of existing structures within the Marina Zone, I concur within PMNZ that an extension would enable activities that are operational requirements of the Marina Zone to occur. The activities as described by PMNZ, such as maintenance of structures and dredging are activities that are required within this area. If these activities are undertaken in line within the permitted activity standards, there are unlikely to be any adverse effects to the coastal marine area as a result of the extension of the Marina Zone.

895. I consider that amendment to the zoning would be effective in achieving the purpose of the Act, as the zoning is a method that is used to apply a suitable management framework to the area of the Marina, and the operation of this marina within this framework will assist in achieving the

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objectives and policies of the MEP. The proposed zoning change is also considered efficient as it will enable Marina activities to take place within this area without the undue time and cost of resource consenting applications.

### Expansion of Marina Zone to include residential properties

896. Turing to the submission of PMNZ to rezone seven Beach Road properties and Endeavor Stream as Marina Zone. I do not consider that sufficient information has been provided by the submitter to fully assess the implications of this proposed zoning change. I have not been provided any information by the submitter as to why the additional land is required for Marina use.
897. I have concerns that the rezoning of these properties would reduce the level of residential zoned land within the area, and would provide for the zoning of an area that would have associated adverse effects (ie noise, dust, amenity) being located closer to existing dwellings. For example the proposed Marina Zone extension would result in the Marina Zone applying directly opposite the residential properties at 29-37 Beach Road.
898. I note that the majority of land proposed to be rezoned (except for 17 Beach Road) is already within the ownership of PMNZ, however the land along the opposite side of Beach Road appears to be in private ownership.
899. I appreciate that Policy 4.2.1 recognises the Port of Waikawa as regionally significant infrastructure, and as directed by this policy and objective 4.2 it is essential for the social, economic, wellbeing and health and safety of Marlborough's community that this infrastructure continues to operate efficiently and effectively. The policy gives clear direction that the benefits of this infrastructure will be taken into account when developing rules, considering consent and plan changes.
900. At this time, given the concerns I have particularly in relation to the potential adverse effects of the location of the Marina Zone in closer proximity to residential zoned properties, and that I have been provided insufficient information by the submitter to demonstrate that there is a need for the expansion of the zone, I am unable to be fully satisfied that the expansion would not result in adverse effects to neighbouring residential properties. While I appreciate that the Marina is recognised as regionally significant infrastructure, I do not consider that this reason alone provides justification for the expansion of the zone, and in order to be satisfied that the rezoning would be consistent within the objectives and policies of the plan, more information is required. I therefore recommend that the submission 433.204 from PMNZ is rejected.

### ***Recommendation***

901. I recommend that MEP Zone Maps 41 and 43 are amended to provide a 20m extension to the Marina Zone beyond the visible structures, as depicted in Annexure B – Waikawa Marina Zone in the Submission of PMNZ (433).

## Shakespeare Bay

### *Submissions*

902. Three submissions were received in relation to Zoning Map 36 that applies to Shakespeare Bay.
903. PMNZ (433.209) considers that the narrow strip of Open Space 3 zone that separates the Port Zone and the Coastal Environment 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. They request to Zone the narrow strip of Open Space 3 Zone which separates the Port Zone from the Coastal Environment Zone to Port Zone.
904. Te Atiawa (1126.015, 227) submit that Shakespeare Bay is of significance to Te Atiawa. Te Atiawa seek the reduction of the Port Zoning that reflects the boundaries of the Port Zone within the operative MSRMP.

### Open Space 3

905. Policy 9.6.1 of the MEP provides for the continuance of access and the need to enhance public space along the coastal marine area. Policy 9.11.10 seeks the creation of access strips as a significant means of enhancing public access to and along the coastal marine area. The Policy goes on to state in the explanation that by providing for public ownership, management of, or access to the margins of the coast and other waterbodies, esplanade areas are an important mechanism for achieving the goals of the RMA in terms of public access.
906. The proposed MEP seeks to expand the extent of the Port Zone within Shakespeare Bay to include landward areas coastal marine area on the western side of Shakespeare Bay. The proposed Open Space 3 Zone is a strip proposed to run between the extension of the Port Zone and the adjacent Coastal Environment Zone. The effect of this strip of open space is that it provides a link for public access along the coastal marine area as Sounds Foreshore Reserve from Queen Charlotte drive around Shakespeare Bay. This will provide a link of open space where no such space exists under the MSRMP, and will provide a link around Shakespeare Bay in the direction of Picton.
907. In addition to the provision of public access, it was the intention of the Council, that this area of Open Space would also provide an opportunity to screen any subsequent Port development (as a result of the extension of the Port Zone within the MEP) on the land below the Road. This would recognise that Shakespeare Bay retains a greater level of natural character than other Port Areas of Picton and Havelock.
908. I consider that there is a clear direction from the RMA and NZCPS to promote public access within the coastal environment, and the proposed Open Space 3 zoning allows an opportunity for this to occur where it previously did not exist. I do not consider that the argument made by PMNZ that it will be difficult to manage, provides sufficient reason to diverge from the clear direction of the higher order documents.



**Recommendation**

909. For the reasons outlined above I recommend that the narrow strip of Open Space Zone 3 that separates the Port Zone and the Coastal Environment Zone at Shakespeare Bay retained as notified.
910. I recommend that the submission of PMNZ 433.209) is rejected.

Extent of the Port Zone

911. Te Atiawa (1126.015, 227) submit that Shakespeare Bay is of significance to Te Atiawa. Te Atiawa seek the reduction of the Port Zoning to that of the operative MSRMP.
912. PMNZ (433.049) is concerned that the zoning of the Port, Port Landing and Marina Zones, is not consistent within the overlays that require a total avoidance of adverse effects for instance of ecological values. They submit that this creates uncertainty to those undertaking activities within these zones. It is noted that this submission was raised in relation to Policy 13.1.1, but I consider it is more appropriate to deal with in this section of the report given the application to the Port Zone in Shakespeare Bay.
913. Within Shakespeare Bay there has been an extension of the Port Zone landward to within the south and south western sections of the bay through the MEP. The Port Zone now covers the area of wetland at the head of the bay and extends approximately halfway up the slope of the south-western side of the bay. The Port Zone now encompasses the area identified as Significant Wetland W991.

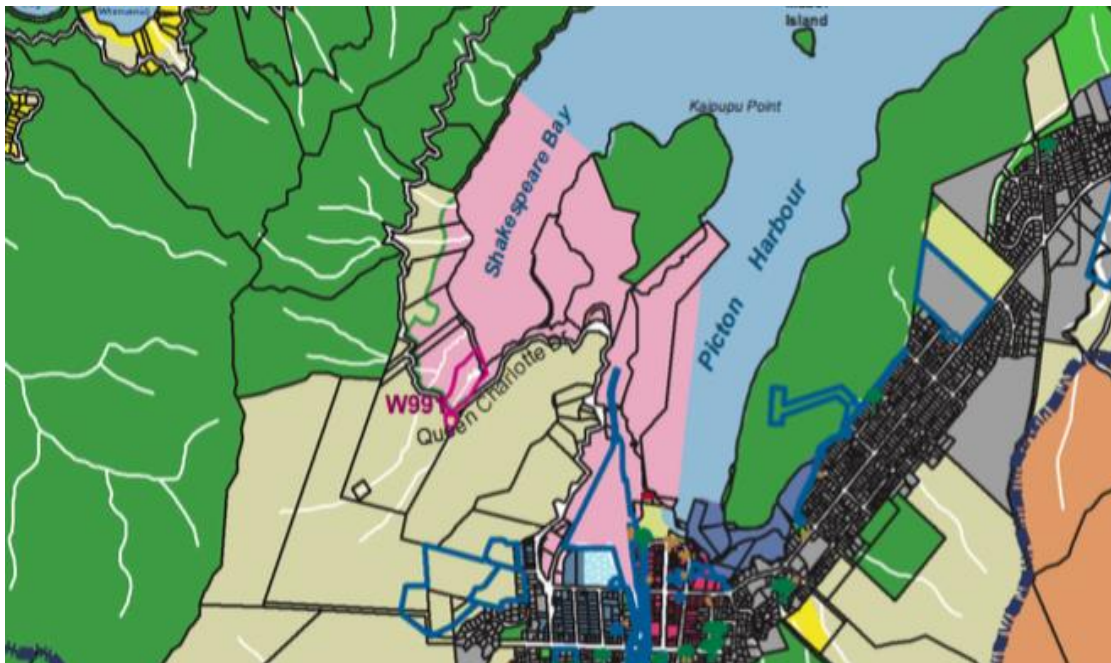


Figure 16: Port Zone at Shakespeare Bay as notified within the MEP (Port Zone in pink)

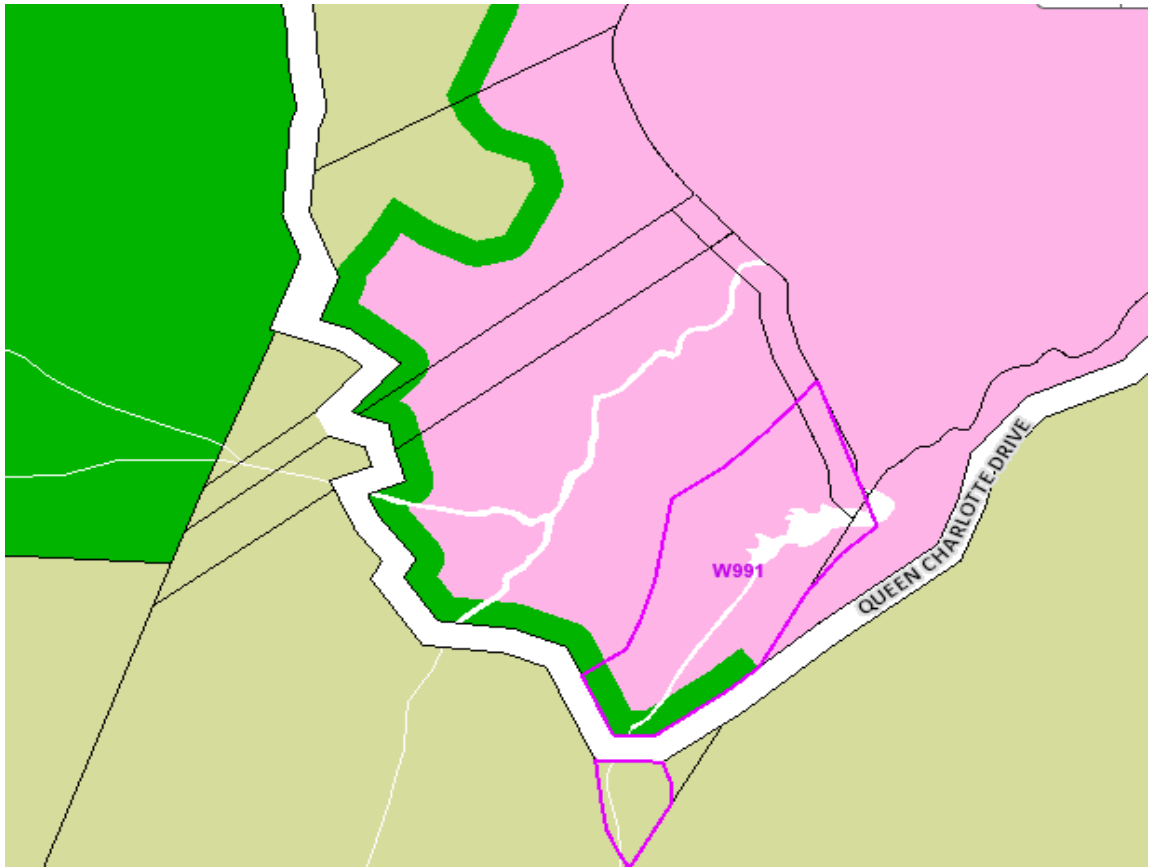


Figure 17 – Extract from Zoning Map (Source MEP Maps). Open Space 3 Zoning (In Green) and Port Zoning (in Pink)

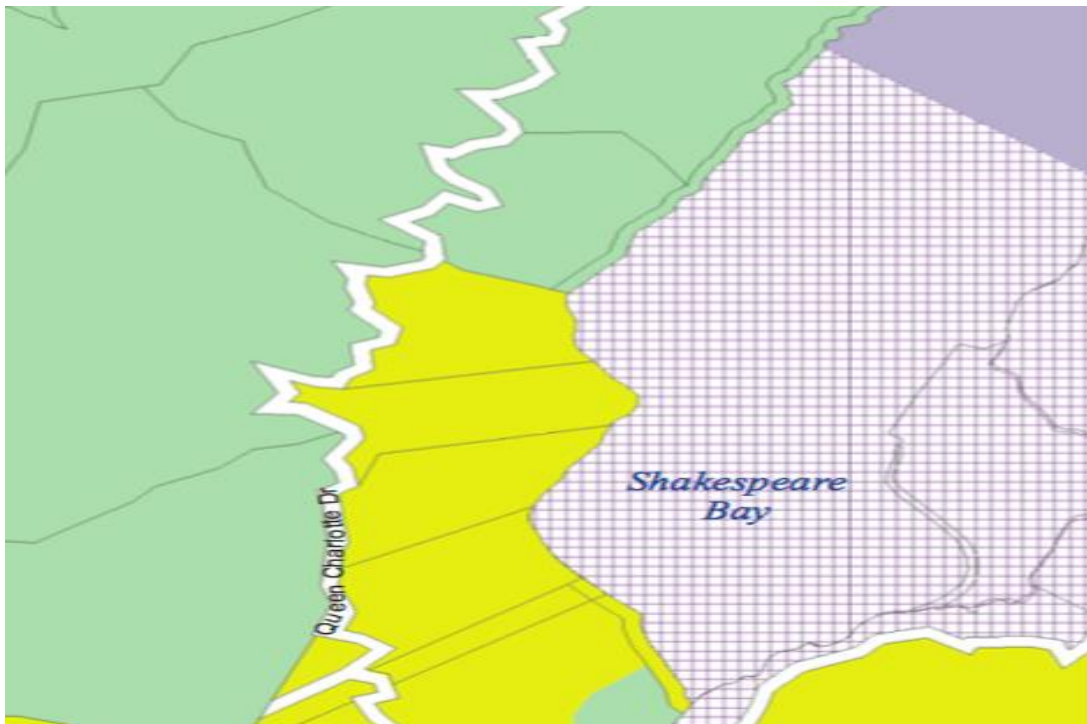


Figure 18: Port Zone at Shakespeare Bay within operative MSRMP (Port Zone in pink hatching)

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914. Shakespeare Bay also contains Ecologically Significant Marine Site 4.10 at the head of the bay. The site is identified as significant as the large area of tidal flats support beds of seagrass. This site is located within the Port Zone under the MSRMP.
915. There is clear direction from Policy 11 of the NZCPS and the objectives and policies of the MEP within Chapter 8, to avoid adverse effects on these ecologically important sites.
916. As a result of the Port Zone extension provided under the MEP, my concern is that the extended area provides for, as permitted activities, a number of activities that are likely to result in adverse effects to these areas, in particular the significant wetland. These include activities that may result in the construction of buildings, and the disturbance of the foreshore and seabed, provided standards are met.
917. It is noted that the standards that apply to these permitted activities within the Port Zone do not restrict these activities from occurring within the identified significant wetland or ecologically significant marine site. As such the construction of buildings, and disturbance of foreshore and seabed within the significant wetland and ecologically significant marine site could occur as a permitted activity.
918. The submission by Te Atiawa, raised concerns regarding the effect that the proposed extended Port Zoning would have on the cultural and ecological importance of Shakespeare Bay.

### Ecological Significance

919. I concur with Te Atiawa, that the expansion of the Port Zoning in Shakespeare Bay raises concerns about the ability to ensure that activities within the Port Zone do not have an effect of those areas of ecological importance identified within the zone, namely the significant wetland W991 and ESMS 4.10.
920. As outlined within paragraphs 72-72 there is a clear obligation on the Council to manage activities to ensure that that adverse effects on these identified ecological sites are avoided.
921. In order to achieve this, I have considered three options that I believe that are within the scope of the submission by Te Atiawa. The first is to retain the zoning as notified within the MEP and provide for additional protection to these identified ecologically significant sites through rules in the Port Zone that limit the activities that can occur within these areas of the zone.
922. The second option is to reduce the extent of the Port Zone, in particular to remove the areas of the significant wetland and ESMS 4.10 from within the Port Zone boundaries.
923. The third option is to remove the Port zoning from the area of the significant wetland and re-zone this area with Open Space 3 zoning, and retain the Port Zoning over the ESMS 4.10 as within the operative MSRMP.
924. In considering the first option, I considered introducing additional standards to the permitted activity rules that relate construction of buildings, and disturbance of the foreshore and seabed within the Port Zone. The standards could include an exclusion that prevent these activities

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from occurring within the areas identified as significant ecological sites. These standards would ensure that any activity that has the potential to cause adverse effects is considered through the resource consenting process as a discretionary activity.

925. The problem, however with the first option, is that I am concerned that by only preventing activities from occurring as a right within the wetland and ESMS, will not necessarily ensure that the activities being undertaken around the wetland and ESMS, within the remainder of the Port Zone will not result in adverse effects to the sites. In addition any resource consent will be considered through an assessment of the policies within Chapter 13 that support Port Zone, and encourage the efficient use of land and operation within these zones. It does not sit right that that the application of the Port Zone as an underlying Zone for an area of ecological significance is appropriate.
926. The second option, is to reduce the notified area of the Port Zone to remove the area of the zone that is occupied by the significant wetland and ESMS, and revert this underlying zone to Open Space 3 Zone. The zoning would be an extension to the Open Space 3 Zone proposed within this area (adjacent to the notified Port Zoning), and would be consistent within the Zoning of other significant wetlands adjacent to other land uses (for example within Havelock).
927. The third option to retain Port Zoning over the ESMS (as this currently exists within the MSRMP) and revert the underlying zoning of the significant wetland to Open Space 3.
928. Given the clear direction of higher order documents and other provisions within the MEP to avoid adverse effects within areas of ecological significance, it is considered appropriate that the underlying zoning of the area should limit the activities that can occur on within the zone. The intention of the use of the zone should be complementary to ensuring that adverse effects on these areas of significance are avoided.
929. It is noted that the underlying zoning of Ecologically Significant Marine site 4.10 is currently Port Zone under the operative MSRMP. I also note that this site, is not identified within the Davidson Environmental Ltd Report, '*Reassessment of selected significant marine sites (2014-2015) and evaluation of protection requirements for significant sites with benthic values*' November 2015,<sup>228</sup> as a Category A or B site requiring additional protection from seabed disturbance.
930. I am minded to prefer that the underlying zoning of the ESMS is rezoned as Open Space 3 as I consider this zoning to be a more complimentary to ensuring that adverse effects of activities within this site are protected. However I acknowledge the current zoning of the ESMS as Port Zone, appears to have provided suitable protection of this area.
931. In terms of effectiveness, the proposed zoning changes as outlined in option 1 and option 2 above are reflective of the direction of the policies and objectives of the remainder of the MEP, and therefore are effective in achieving the objectives of the MEP and the purpose of the RMA. While the proposed changes may result in potentially a loss of opportunity to expand Port

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<sup>228</sup>[https://www.marlborough.govt.nz/repository/libraries/id:1w1mps0ir17q9sgxanf9/hierarchy/Documents/Environment/Coastal/Sigificant%20Marine%20Sites/26112015\\_Item\\_6\\_Expert\\_Panel\\_Assessment\\_of\\_2014-15\\_monitoring\\_site\\_categorisation\\_and\\_buffers.PDF](https://www.marlborough.govt.nz/repository/libraries/id:1w1mps0ir17q9sgxanf9/hierarchy/Documents/Environment/Coastal/Sigificant%20Marine%20Sites/26112015_Item_6_Expert_Panel_Assessment_of_2014-15_monitoring_site_categorisation_and_buffers.PDF)



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facilities within these areas, the costs are outweighed by the fact that the provisions will ensure that the ecological significance of these sites is maintained and protected. For these reasons the ether option 1 or option 2 are considered efficient and effective.

932. It is noted that within the s42A Hearing Report – Significant Wetlands, prepared by Rachel Anderson and Peter Hamill, at paragraph 378 that PMNZ have submitted in opposition to the extent of the boundaries of Significant Wetland W991. The s42 report has recommended, within the same paragraph, that at the request of the Panel an onsite assessment is carried out to confirm the boundaries of this wetland. I recommend that if this onsite assessment is undertaken it would be appropriate for the officers to make an assessment of the extent of the application of Open Space 3 Zoning, if the panel is inclined to accept my recommendation to change the underlying zoning.
933. I therefore recommend that the submission of Te Atiawa (1126.015,16 227) and PMNZ (433.049) are accepted in part.

### Cultural Significance

934. As outlined above in paragraph 911, Te Atiawa submit that the area of Shakespeare Bay is of cultural significance to Te Atiawa. Unfortunately, at this time I am unaware of the nature of the significance of Shakespeare Bay, to enable me to confidently ensure that any reduction in zoning, or application of any additional standards or rules within the Port Zoning, would be sufficient to overcome the concerns raised by Te Atiawa on effects to cultural values. If information could be provided by the submitter that provides me within more information as to the areas that they consider should be excluded from the Port Zone, and the reasons why, or, if any permitted activity standards could be applied to the Port Zone to control the adverse effects of Port activities on cultural values, I would be happy to consider the implication and actions of such recommendations.

### **Recommendation**

935. I recommend that Zoning Map 36 is amended to remove the Port Zone as the underlying Zone in the area identified within the Zoning Map as Significant Wetland W991, and apply Open Space 3 Zone as the underlying zoning for this area.
936. At this time, I am not minded to make a recommendation on the underlying zoning of the ESMS 4.10. I consider that the retention of the Port Zoning (as within the operative MSRMP) or rezoning this area to Open Space 3, requires further consideration at the hearing and by the hearing panel. I will be willing to consider further information on this matter at the hearing.

## **Havelock**

### **Submissions**

937. Port Marlborough (433.127) 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

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marine area are zoned Port. PMNZ does however accept that, aside from the water area which is used as a marina, the zoning does largely reflect the uses taking place in this area.

938. To ensure that all activities can continue to operate effectively and efficiently at Havelock, PMNZ seeks that, either:

The following marina activities are provided for as permitted activities at the Port Zone at Havelock;

- Marina administration activities including ancillary residential activities;
- Ship brokering and charter hire services;
- Ship related tourist activities and tourist operator services;
- Clubrooms for marine related activities;
- Commercial activities ancillary to marina activities.

Or

The zoning of this area is carefully re-evaluated and rezoning in accordance with the outcomes of the evaluation.

### **Assessment**

939. The MEP provides for zoning within Havelock as shown on Zoning Map 135. This is shown in Figure 19 below

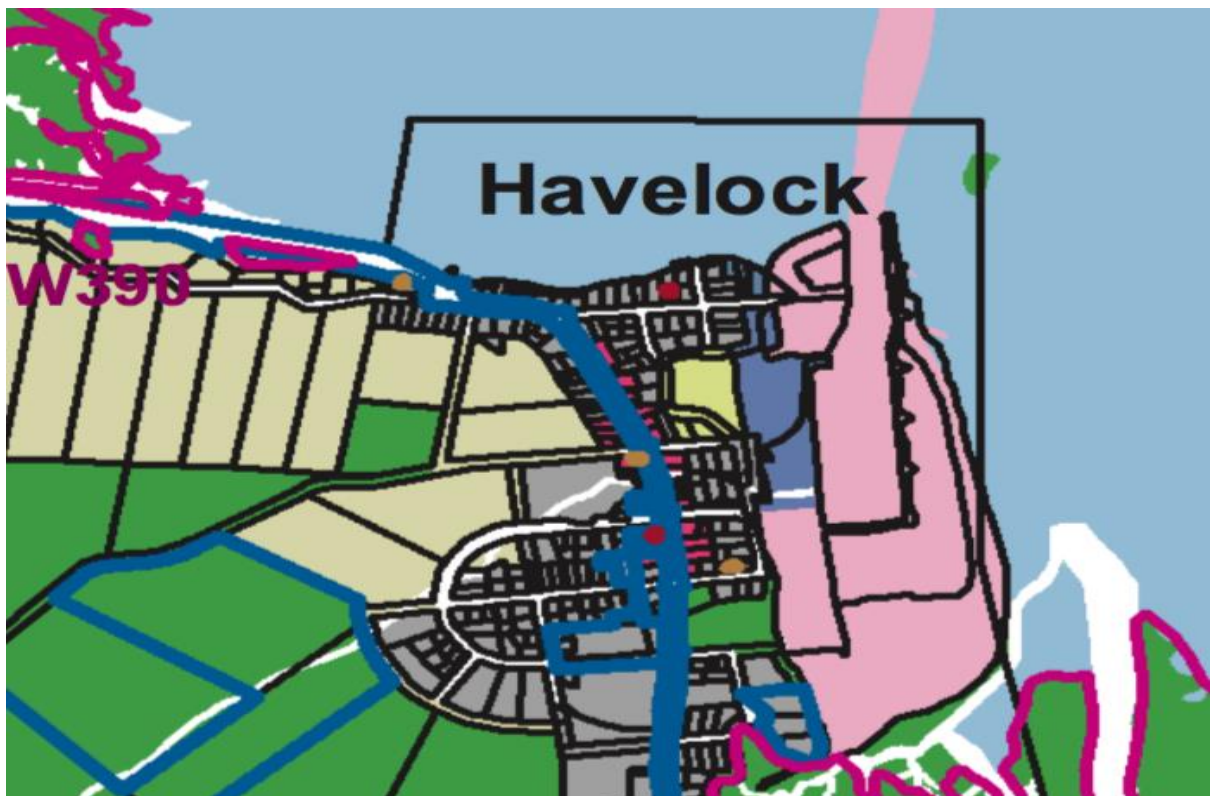


Figure 19: MEP Zoning Map 136 (Port Zone in Pink, Marina Zone in Purple)

940. Within the MSRMP the entire area covered by Port and Marina Zones is zoned Port Zone. The extent of the area has not varied, only the zoning allocation inside the area.

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941. In the MSRMP all activities listed within the submission of PMNZ are currently provided for as permitted activities within the Marina Zone, however this does not apply to the Port of Havelock.
942. The activities that are listed within the submission of PMNZ are those that you would anticipate within the area, being a zone that caters of both Port and Marina activities.
943. The concern I have in providing for these types of activities within the Port Zone, is that it will diminish the distinction between the zones, and could result in an ad-hoc development pattern across the area. The intention of including a marina zone within the area, is to provide for 'marina related activities' within an identified area of the wider port/marina area.
944. In addition, the area identified as Marina Zone comprises of a large area of public car park within this zone. This car park area provides an area with limited development as a link between the area of open space to the west of the Marina Zone. It is noted that Policy 13.8.8 intends to promote connections between Havelock town and the Port. The marina zoning of this area, provides for a more constrained level of development than a Port Zoning, that better reflects the intention of the Council to promote a connection between the Port and the town.
945. I consider that a re-evaluation of the zoning within the area could occur, in connection with further discussions within the PMNZ, on the intentions of marina development on the land and in what locations. I agree that it would be reasonable to include an area that reflects the scale of the water used for marina activities to be rezoned as marina.
946. PMNZ has not provided within their submission, any mapping or direction as to what they consider would be a more appropriate zoning of the site. If this information is supplied by PMNZ then I would be able to further assess the appropriateness of any zoning amendment requested.
947. For these reason, until such time as information is received from PMNZ to ascertain as to what they consider to be a more appropriate zoning of the site, then I recommend that the submission of PMNZ (433.127) is rejected.

## Matter 9 - Lake Grassmere

948. Activities within the area of Lake Grassmere Salt Works are specifically dealt with in Volume 1 Chapter 13 – The use of the Coastal Environment. An assessment has been undertaken of the submissions on the following provisions:

- Issue 13L
- Objective 13.19
- Policy 13.19.1 – Policy 13.19.4
- Method 13.M.28 - Method 13.M.31
- Volume 2 - Chapter 22 Lake Grassmere Salt Works Zone Rules
- Zoning Map - 187

### ***Submissions***

949. Three submissions were received from Dominion Salt works in objection to three elements of the Lake Grassmere Salt Works provisions, namely;

- Objective 13.9<sup>229</sup>
- Policy 13.19.3 – Establishment of a Landcare group<sup>230</sup>
- Extent of the 'Lake Grassmere Salt Works Zone' on Zoning Map 187<sup>231</sup>
- Rules within the Lake Grassmere Salt Works Zone

950. I will address each of these of these topics below.

951. All other submission received were in support of the Issue, Objective and Policies as notified.<sup>232</sup>

### ***Assessment***

#### Objective 13.9

952. Dominion Salt opposes Objective 13.9 on the basis that the objective should recognise the environmental benefits of the Salt Works, including flood mitigation on SH1 and ensuring that there is sufficient water within the lake in summertime to prevent dust pollution and to enhance the habitat of indigenous flora and fauna.

953. Objective 13.9 serves to demonstrate what the Council wants to achieve in response to resource management issue 13L. While there may be positive environmental effects that result from the Salt Works, the Council's aim is to recognise the importance of the salt works, and control any potential adverse effects of that activity on the environment. The objective as notified demonstrates the Council's desire to see the production of solar salt continue at Grassmere, and ensure that this is done in a sustainable manner.

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<sup>229</sup> Dominion Salt 355.005

<sup>230</sup> Dominion Salt 355.003

<sup>231</sup> Dominion Salt 355.017

<sup>232</sup> Forest and Bird 715.359; Port Clifford Limited 1042.073; Dominion Salt Limited 355.001, 002, 004; Bruce Lawrence Pattie 380.010.

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954. S5 of the RMA provides a definition of sustainable management that ensures the use and development of natural and physical resources is managed in a way that provides for social economic and cultural wellbeing and health and safety (and other considerations), and includes avoiding remedying and mitigating any adverse effects on the environment.
955. The Council's role is to achieve the purpose of the Act, and therefore the MEP aims to ensure that effects from the Salt works are managed.
956. It is noted that some of the positive environmental effects of the proposal are already referenced within the explanatory text to Issue 13K, in particular dust control. The submission does not provide any evidence that clearly demonstrates the benefits outlined in the submission. However if evidence is subsequently provided I would have no objection to including it in the explanatory text to Issue 13K.
957. I do not consider, however, that the objective needs to be amended, as the objective as notified identifies what the Council seeks to achieve.
958. I therefore reject the submission of Dominion Salt (355.005) on Objective 13.19.

### Policy 13.19.3

959. Dominion Salt request the deletion of Policy 13.19.3, on the basis that they do not consider that the establishment of a Landcare Group is necessary at this time. It should be noted that the submission states that Dominion Salt do not oppose the Landcare Group in principle.
960. It is noted that the submission of Bruce Pattie (380.010), a landowner in Clifford Road, supports the policy to encourage the formation of a Landcare Group.
961. Given the express support of the policy by at least one person in the local community, and that Dominion Salt in principle have no objection to the policy, I consider that it should be retained as notified. The policy provides an avenue to establish a group at such a time when it is considered appropriate. As stated within the submission of Dominion Salt, it may not require establishment at this time but this policy provides an avenue for such a group to be established within the lifetime of the plan if required.
962. For these reasons, I recommend that the submission of Dominion Salt (355.003) in relation to Policy 13.19.3 is rejected.

### Zoning

963. Dominion Salt seek to extend Lake Grassmere Salt Works Zone over adjoining roads, over Open Space up to the edge of the Coastal Marine Area, and to encompass 25m either side of the pipelines and infrastructure inside the Coastal Marine Area in order to include all of the Salt Works Operation Area. This submission is opposed in a further submission by NZTA (FS1014) on the basis that NZTA opposes any extension of zoning over State Highway 1 (designated in the Plan) adjoining the western edge of the zone. In addition, the scope of potential effects of rezoning are unclear from the description.

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964. Dominion Salt also seek to extend the area of 'administration, workshops, salt refining and processing area' south to provide for growth. The submitter has provided no information supporting the need for expansion of the Salt Work Administration, Workshop, Salt Refining and Processing Areas to the south.
965. Dominion Salt have not provided any maps to indicate the extent of the expansion sought as outlined above.
966. I concur with the concerns raised by NZTA with respect to State Highway 1, and also have concerns regarding the expansion of the zone into the coastal marine area, and the potential effects of the expansion into adjoining land.
967. It is noted that the area to the south of the Lake Grasmere 'Salt Work Administration, Workshop, Salt Refining and Processing Area', is also zoned within the 'Lake Grassmere Salt Works Zone'.
968. The Objectives and Policies of the 'Lake Grassmere Salt Works Zone' seek to enable the production of solar salt at Lake Grassmere in a sustainable manner (Objective 13.19). It is foreseeable that the production of solar salt may require the expansion of some areas of the operation, for example salt works administration, workshop refining or processing.
969. As the submission has provided no clear justification for the need for the expansion of this zone, nor a map to indicate the extent of this expansion, or any information on the existing environment of the proposed extension I am unable to assess the zoning expansion request in full in line with the objectives and policies of the 'Lake Grassmere Salt Works Zone' and the remainder of the MEP.

### ***Recommendation***

970. For the reasons outlined above, I recommend that the submission from Dominion Salt (355.017) in relation to zoning expansion is rejected, and provisions relating to the Lake Grassmere Salt Works, namely Issue 13L, Objective 113.19, Polices 13.19.1 – 13.19.4, Methods 13.M.28 - 13.M.31, and Zoning Map 187 remain as notified.

### Rules

#### ***Submissions and Assessment***

971. Nine (9) Submissions were received in repose to the notified rules within the Lake Grassmere Salt Works Zone.
972. Five (5) submissions were received from Dominion Salt requesting amendments to the rules as notified.
973. Dominion Salt (355.006) has requested the inclusion of words "and the full range of processes required" following the permitted activity Rule 22.1.1 which provides for Solar production, refining, handling, packaging, storage and sale of salt and associated by-products, as a permitted activity.

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974. As outlined within the Section 32 report<sup>233</sup> “The WARMP methods of implementation for the Lake Grassmere salt works operation have been continued within the MEP. No change was considered necessary as these have proven to be efficient and effective for the management of this activity”.
975. For these reasons, I cannot see why there has been removal of the words ‘and the full ranges of processes’ from Rule 22.1.1 as this is how it exists within the WARMP. For this reason, I accept the submission of Dominion Salt.
976. For the same reason, I accept the submission (355.007) in relation to Rule 22.2.1, to enable the same rules that apply within the WARMP to apply within the MEP. It is noted that the standards for buildings within the WARMP and the MEP are identical.
977. Dominion Salt (355.008) has requested that Rule 16.1.3 is revised to separate the ‘take and use of coastal water’ from the remainder of rule.
978. I do not consider that this amendment is necessary given that the two activities, namely the ‘take of coastal water’ and the ‘maintenance of existing seawater intake pipelines within the Lake Grassmere Salt Works Intake and Pipeline Extension Corridor shown in Appendix 21’ are intrinsically linked. I note that no submissions have been received in respect of the standards for this permitted activity contained within Rule 22.3.2. For these reasons, I recommend that the submission is rejected and Rule 22.1.3 is retained as notified, and the submission is rejected.
979. Dominion Salt (355.012) has requested the deletion of Standard 22.3.4.1, which states that a Temporary Channel (for storm water flood outlet) must only be constructed and used when a storm event is forecast. Dominion Salt state that the channel is almost always constructed after a storm event, and the restriction is unnecessary.
980. The intention of this rule, is to provide for the ability to construct a channel for storm water in flood events. I can appreciate the submission by Dominion Salt that this may require to be undertaken after a storm event (say for example when the event creates flooding that was unanticipated). For this reason, I recommend that the submission is accepted in part and recommend the addition of the words “or immediately following storm event’ to Rules 22.3.4.1. The proposed amendment will not affect the application of the other standards within 22.3.4.

### **Recommendation**

981. I recommend that Permitted Activity Rules 22.1.1 and 22.1.2 are amended to read:

22.1.1        *Solar production, refining, handling, packaging, storage and sale of salt and associated by-products, and the full range of processes required*<sup>234</sup>.

22.1.2        *Buildings, Bunds and roads associated with the Salt Works activities. existing at 9 June 2016*<sup>235</sup>.

<sup>233</sup> Section 32: Chapter 13 – Appropriate Activities, recreation, fishing, residnetail, shipping, Lake Grassmere pg 45

<sup>234</sup> Dominion Salt (355.006)

<sup>235</sup> Dominion Salt (355.007)

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982. I recommend that Permitted Activity Standard 22.3.4.1 is amended to read:

22.3.4.1      *The temporary channel must only be constructed and used when a storm event is forecast or immediately following a storm event<sup>236</sup>.*

983. I recommend that an additional standard is added to Rule 22.3.7 to read:

22.3.7.9      *Filling must not cause water to enter onto any adjacent land under different ownership*<sup>237</sup>.

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<sup>236</sup> Dominion Salt (355.012)

<sup>237</sup> Marlborough District Council 91.166, 165



## Matter 10 – Port Zone at Clifford Bay

### **Background**

984. The Port Zone in Clifford Bay has been carried over from the operative Wairau Awatere Resource Management Plan (WARMP). At the time the WARMP become operative, consent had been granted by the Council for the development of a site in the vicinity of Marfells Beach, Clifford Bay as an inter-island ferry terminal, including the construction of a reclamation, breakwater structures, port facilities, buildings and associated infrastructure required for the operation of a new safe port.
985. The WARMP under Issue 9.23 states that proposal is “of considerable importance to the national transportation network as well as to local and regional interests. The nature of the project will give rise to a number of environmental effects, both during and after construction. Particular matters which need to be considered include the purpose and design of structures, navigation and safety, public access, recreation activities, visual and aesthetic issues, iwi issues, the effect on coastal and other natural processes and short-term construction effects”<sup>238</sup>.
986. The WARMP includes a Port Zone (located on land and in the Coastal Marine area) to provide for the activities and structures associated with the ferry terminal and occupation of the coastal marine area.
987. Resource Consents to develop the Port and associated infrastructure have now lapsed<sup>239</sup>. It is the understanding of the Council and submitter Port Clifford Limited that at this time this proposal is not being further pursued by any party.

### **Submissions**

988. Port Clifford Limited (1041.001) have made a number of submissions relating to the Port Zone at Clifford Bay.
989. Port Clifford Limited’s submission outlines that they envisage a smaller ‘pocket port’ concept at Clifford Bay, where the use may include (but not limited to) export of goods and interisland road freight services, but would not include rail freight or passenger services.
990. The submitter supports the retention of the Port Zone, and related objectives, polices and methods, but with the following amendments;
- Amend the zone boundaries to provide for the smaller ‘pocket port’ concept<sup>240</sup>;
  - Amend the objectives, polices and methods and explanatory text in support of the ‘pocket port’ concept;

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<sup>238</sup> WARMP 9-19

<sup>239</sup> Resource Consents U960233, U980634, U950728

<sup>240</sup>

- Remove rule 13.5.2 which requires resource consent as a Discretionary Activity for any activity for the purpose of constructing any Port facility within Clifford Bay.

### **Assessment**

#### Zoning

991. The submitter requested amendment to the zoning boundaries of the Port Zone within Clifford Bay to an area to the north west of the existing port zone<sup>241</sup>. The submission is not clear if they seek the removal of the existing Port Zone and replacement with the proposed Port Zone, or if the submitter seeks an extension to the Port Zone boundaries to include the proposed Port Zone area.
992. Where it states that 'PLC supports the retention of zone', I have taken the submission to imply that it seeks an extension to the boundaries of the zone, and the existing zoning is retained.
993. I do not consider that either option (remove and replace vs retain and extend) alters my assessment.
994. The purpose of zoning is a tool to achieve the objective and policies of the plan (in this case being the MEP), and subsequently a tool to achieve the purpose of the RMA. Zoning itself is not an outcome<sup>242</sup>.
995. The Port Zone extension as submitted by Port Clifford Limited (as identified within Appendix A of their submission), identifies an area where the following Zoning and Overlays apply to the site;
- Zoning
    - Coastal Marine Zone
    - Open Space 3 Zone
    - Rural Environment Zone
  - Overlays
    - Significant Wetland (W78)
    - Threatened Environment – Indigenous Vegetation Site
    - Coastal Natural Character – Very High Rating
996. The submission by Port Clifford provides no information on the existing environment, nor has the submission provided any information on the how the proposed Port Zone would be consistent with and achieve the objectives and policies of the MEP, and give effect to the NZCPS and the RMA.
997. Given the sensitive nature of the existing environment within the proposed Port Zone (containing a significant wetland, an area of threatened indigenous vegetation, and within the

<sup>241</sup> Submission of Port Clifford Limited (1041) at Appendix A

<sup>242</sup> Quality Planning <http://www.qualityplanning.org.nz/index.php/component/content/article/10-useful-links/381-zoning-as-a-tool>

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sensitive Coastal Marine Area), the proposed zoning extension has the potential to provide for activities on the site that could result in significant adverse effects.

998. The submission has highlighted that Clifford Bay has long being recognised as a natural place for a port, and that economic constraints have limited a port development. It is noted since the WARMP became operative, the 2016 Kaikoura Earthquake occurred. That resulted in significant changes to the eastern coastline of the South Island<sup>243</sup>, which have not been considered as part of the current Port Zoning.
999. There is an absence of information in the submission to assess whether the zoning as proposed is an appropriate tool to achieve the objectives and policies of the plan.
1000. The NZCPS directs that precautionary approach must be adopted toward proposed activities when effects on the coastal environment are uncertain, unknown, or little understood but potentially significantly adverse.
1001. For the above reasons, at this time, I recommend that the submission of Port Clifford Limited to amended the boundaries of the Port Zone at Clifford Bay (1041.01) is rejected. If the submitter can provide information during the hearing process to demonstrate that the proposed zoning is appropriate to achieve the RMA, NZCPS and objective and polices of the MEP, then this may be further considered.
1002. In relation to the current zoning, time that has elapsed since this area was zoned as Port, and changes that have occurred to the both the physical, economic and social environment within this area. I consider that the current zoning, along with the provision of Rule 13.5.2 that requires any activity for Port construction to obtain resource consent as a discretionary activity, enables a full assessment of any proposed port of any scale within this zone and an assessment of the potential adverse effects of such an activity on the current environment. This process will ensure that any proposal gives effect to the RMA, and objectives and polices of the MEP.

### Amendment to Objectives, Policies, Methods and Explanatory Text

1003. The submission by Port Clifford Limited supports the majority of provisions within Chapter 13 – Use of the Coastal Environment, subject to the Port Zone at Clifford Bay being retained.
1004. Port Clifford Limited also seek that some policies are amended to refer specifically to the Port Zone of Clifford Bay. These include;
- Policy 13.6.1 to provide moorings and berthages by zoning areas Port Zone<sup>244</sup>
  - Policy 13.15.2 to avoiding adverse effect on water transportation by avoiding structures and activities within significant shipping routes (including routes from named Ports)<sup>245</sup>

<sup>243</sup> GNS Science models at <https://www.stuff.co.nz/national/86565581/finding-out-how-much-the-earth-moved-during-massive-earthquake>

<sup>244</sup> Port Clifford Limited 1041.27

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- Policy 13.17.3 - Recognising and providing for the Operational requirements in Port Zones in Picton and Havelock.<sup>246</sup>

1005. I consider the at the inclusion of the Port Zone at Clifford Bay specially within the above policies, would be inappropriate given that the port at Clifford Bay does not presently exist and cannot and does not provide for any of the activities identified within the above polices. For example, Clifford Bay cannot provide moorings and berthage, does not currently have ships visiting the site and therefore is not a significant shipping route. In addition, given that there is no Port operating there is no need to provide for the operational requirements on the Port in Clifford Bay.

1006. The inclusion of Clifford Bay in the above polices, would, I consider, undermine the interpretation and application of these policies to the areas to which they are applicable.

1007. Port Clifford Limited also submit that a new Policy 13.14.3B be added to recognise and provide for a potential port at Clifford Bay as a link between land transport modes and water transport for export and import of goods between the Marlborough region and beyond.

1008. Objective 13.14 seeks to achieve the use of the coastal marine area as part of Marlborough's overall transportation network to contribute to the social economic and cultural wellbeing of Marlborough and New Zealand, and Policy 13.14.3 seeks to give effect to this by ensuring existing ports provide links to land transport modes.

1009. It is noted that within the MEP the designations for Rail and Roothing still apply within this wider area (i.e. State Highway One and Rail Line), however the identification of rail routes from the main rail line to Clifford Bay have been removed within the MEP. In addition, the effects on the land transport network as a result of the 2016 earthquake have significantly affected the operation of both the rooding network and rail networks along the east coast. In addition the effects of Cyclone Gita have closed roads again and damaged repairs that were done to the rooding network following the 2016 earthquake. The viability of a Port development at Clifford Bay in light of these changes I do not believe has been assessed.

1010. I consider that the inclusion of a policy recognising the potential of the port to as a link between transport modes is premature.

1011. The submission and assessment of the submission raises questions as to whether zoning of Clifford Bay for a Port Zone is still reflective of current resource management issues, and is the the best management approach. Given that the only submissions received in relation to the Port Zone in Clifford Bay were received from Port Clifford Limited, and that this submission supported the retention of the Port Zone, I consider that it is outside the scope of this report, and commissioners to consider the removal of the Port Zone from Clifford Bay.

### **Recommendation**

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<sup>245</sup> Port Clifford Limited 1041.55

<sup>246</sup> Port Clifford Limited 1041.55

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1012. For the above reasons, I recommend that the Submission of Port Clifford to amend the zoning of the Port Zone within Clifford Bay is rejected. I also recommend that the submission points requesting the express recognition of Clifford Bay Port Zone within polices within Chapter 13 are also rejected.

# Matter 11 – Activities within the Port, Port Landing Area, Marina and Coastal Marine Zones

1013. The management framework for activities within the Port, Port Landing Areas, Marina and Coastal Marine Zones within the MEP comprises of objectives, policies and methods in Volume 1 – The Use of the Coastal Environment.

1014. Volume 2 of the MEP contains the activity rules that apply to each zone. This section of the report assesses the submissions received in relation to the Rules contained within the;

- Port Zone – Chapter 13
- Port Landing Zone –Chapter 14
- Marina Zone – Chapter 15
- Coastal Marine Zone – Chapter 16

1015. Approximately 145 submission were received in relation to the policy framework within Volume 1 for the Port, Port Landing Area and Marina Zones. The majority submissions supported the issues, objectives, policies and methods contained within issues 13J and 13K, objectives 13.17 and 13.18, polices 13.17.1 – 13.17.11, polices 13.18.1- 13.18.8 and methods 13.M.24- 13.M.27 as notified.

1016. The majority of submissions, that opposed or requested amendment to the policy framework were received in relation to Policies 13.17.3 and 13.17.4 that outline the activities that are considered to be the ‘operational requirements’ of each of the Port and Marina Zones.

1017. Over 350 submissions were received in relation to the rules contained within the zones that each form part of the Coastal Environment, together with the Coastal Environment Zone. As all of these zones are located within the coastal environment there is significant overlap in the nature of submissions made across the zones with the majority of submissions related to particular activities managed by rules within one or more of the zones.

1018. As these rules are often identical across the zones, this report does not comment on the submissions raised for every rule within each zone. Instead, submissions on rules have been grouped into the main topics raised across the zonal rules. A response to each submission is however provided within the Appendix of submissions at Appendix 1 of this report.

1019. The assessment within this section of the report will address the submissions on the polices and rules on which the majority of submissions were received, namely;

- Issue 13J

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- Operational Requirements (Port, Port Landing Area, Marina Zone)
- Industrial, Retail Activities and Commercial Activities (Port and Marina Zones)
- Shipping activity (Port Zone)
- Processing of Cargo (Port Zone)
- Manual Scraping of an anti-foul paint coating or bio-foul waste from a ship (Port, Port Landing Area, Marina Zone, and Coastal Marine Zone)
- Living Accommodation (Port and Marina Zone)
- Replacement of a submarine of suspended cable of line (Port, Port Landing Area, Marina and Coastal Marine Zone)
- Temporary Structure or equipment for scientific monitoring purposes (Port, Port Landing Area, Marina and Coastal Marine Zone)
- Dredging (Port, Port Landing Area, and Marina Zone)
- Indigenous vegetation clearance (Port Landing and Marina Zone)
- Filling of land with clean fill (Port, Port Landing and Marina Zones)
- Marine Oil Spills (Port, Port Landing Area, Marina and Coastal Marine Zone)
- Repair and Maintenance of existing structures (Coastal Marine Zone)
- Coastal restoration activities.

### Issue 13J

1020. Issue 13J within the MEP identifies that it is an important issue for Marlborough that Marlborough's Ports, Port Landing Areas, and Marinas continue to contribute to community economic and social wellbeing.

#### ***Submissions and Assessment***

1021. Port of Marlborough (433.065) submit that issue 13J as worded is retrospective in nature, and does not envisage or enable changes/upgrading to this infrastructure, and may unnecessarily inhibit future projects and development of this regionally significant infrastructure. The submission requests the removal of the phrase "*(as they exist or as they have been approved at the time the MEP is operative)*" within the explanation of the Issue.

1022. Within Part 4 of the MEP, Policy 4.2.1 identifies at (l) the Port of Picton and Havelock Harbour as regionally significant infrastructure. Objective 4.2 of the MEP seeks the 'Efficient, effective and safe operation of regionally significant infrastructure'.

1023. The explanation of Policy 4.2.1 states that 'This policy recognises the significance of the infrastructure existing or consented at the time that the MEP becomes operative'.

1024. I have turned to the s42A - Report of submission and future submission Topic: 3 Natural and Physical Resources of Ms Liz White, in which she responded to a similar submission from Port Marlborough on the inclusion of the same wording in Policy 4.2.1.

1025. Ms White concluded that 'The thrust (of the provisions) is therefore largely about recognising, protecting and appropriately managing what is already there. It is my view that if additional infrastructure is built or consented within the lifetime of the MEP, it is appropriate that it is recognised, protected and appropriately managed in the same way'.

1026. I concur with Ms Whites interpretation and approach, and to provide consistency across the plan, accept the submission of the Port of Marlborough on this matter.

#### Recommendations

1. For the reasons outlined above I recommend that the paragraph 2 of the explanation to Issue 13J is amended as follows:

***Issue 13J – It is important that Marlborough’s existing ports, port landing areas and marinas continue to contribute to community economic and social wellbeing.***

*The existing port infrastructure at Picton and Havelock (and latterly at Oyster Bay and Elaine Bay) has been built up over many years. Today these facilities are owned and operated by Port Marlborough New Zealand Limited, a company established in the late 1980s as a consequence of local body reform to succeed the Marlborough Harbour Board. Port Marlborough also owns and operates the marinas at Picton, Havelock and Waikawa.*

*The ports and marinas at Havelock, Waikawa and Picton ~~(as they exist or as they have been approved at the time the MEP becomes operative)~~<sup>247</sup> have been identified as regionally significant infrastructure in Chapter 4 - Use of Natural and Physical Resources. This reflects the function of the strategic integration of infrastructure with land use given to the Council in Section 30 of the RMA.*

## **Operational Requirements within the Port Zone, Port Landing Area and Marine Zones**

1027. Polices 13.17.3, 13.17.4 and 13.17.5 outline the activities that are the 'operational requirements' of the Port, Marina and Port Landing Zones, and requires that these operational requirements are recognised and provided for.

1028. The inclusion of Polices relating to the 'operational requirements' for port, marinas and port landing area, is to provide direction on what is appropriate activity within these areas<sup>248</sup>.

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<sup>247</sup> Port of Marlborough 433.065

<sup>248</sup> Section 32: Chapter 13 – Ports and Marinas



Operational Requirements within the Port Zone

**Submissions**

1029. Port Marlborough (433.068, 098, 099) supports Policy 13.17.3 in that it sets out the principal activities within the Port Zone, however requests amendments to the Policy and to the permitted activity rules to better reflect the range of permitted uses within the zone. These include;
- a reference to permitted activities in the port zone within Policy 13.7.3,
  - Amendments to Policy 13.17.3 to provide for;
    - the removal of ‘some’ as a preface to processing of cargo in 13.17.3(b),
    - the addition of Port Engineering in (d);
    - inclusion of new operational requirement (j) ‘Port Activities’
    - inclusion of new operational requirement (k) ‘Industrial activities related to Port activities’.
1030. Port Marlborough (PMNZ) (433.098) submits Port activities are defined in the MEP as: means activities normally associated with the operation of vessels and other water related activities; cargo, handling and storage; embarking, disembarking and transit of passengers; launching, retrieval and storage of vessels; berthage and mooring activities; associated marshalling, parking, and manoeuvring of vehicles and trains, maintenance activities associated with port structures and development; and ancillary activities to the above.
1031. PMNZ considers that activities captured by this definition should be included as permitted activities in the Port zone. PMNZ acknowledges that Rules 13.1.1, 13.1.3, 13.1.4, 13.1.5 do cover some of the activities captured in the definition, however, some activities, such as the storage of ships or the embarking of passengers (rather than providing a passenger terminal) are not included in the rules.
1032. PMNZ seek a new permitted activity Rules in 13.1 for ‘Port Activities’, ‘Industrial Activities’ and ‘Retail Activities’.
1033. PMNZ (433.156) also seeks that ‘commercial activities’ related to marina activities’ are provided for a permitted activity within the Marina Zone.
1034. GBC Winstone (749.001, 002) oppose Policy 13.7.3 as the operational requirements listed within the notified policy fail to recognise and provide for GBC Winstones’s Picton Service Centre in the Port Zone. They submit that policy is amended to include new operational requirement (m) ‘premises for the storage, blending, distribution of bulk products including concrete processing materials’, and the Permitted Activity Rules within the Port Zone are amended to provide for GBC Winstone operations as a permitted activity.

**Assessment**

1035. Turing to the submission of GBC Winstone, the management framework set up by the objectives, polices and rules of the Port zone, provides for as permitted activities, the majority of which include the operations of GBC Winstone as outlined in their submission. Where the activity is not provided for, it is because the activity would result in a discharge to air that have the potential to result in adverse effects on the surrounding environment. Submission points in relation to discharges to air, as this will be covered in subsequent Hearing block 5, Topic 13 and the s42A report by David Jackson.
1036. As outlined, the management framework within the Port Zone provides for a range of 'operational requirements' of the port zone, as permitted activities, where it is considered that these activities will have no adverse effects to the environment. It is appropriate that the GBC Winstone premises are subject to the same management framework as the remainder of the Port Zone in which the premises are located, and that there is not a more permissive regime put in place for their activities. As outlined within the s32 report 'some land-based activities will also require consent, including certain forms of cargo processing, particularly where this has the ability to create adverse environmental effects and/or where servicing requirements exist'<sup>249</sup>.
1037. In addition, the 'storage, blending, distribution of bulk products including concrete processing materials' is not a 'operational requirements' of a Port. This is an activity that could be undertaken in another location outside the Port Zone, however it is acknowledged that this the GBCWinstone operation has been undertaken in this location for a long time, and is well established within the Picton Port., an operate under a current resource consent. I do not consider it necessary therefore to provide a specific 'operational requirement' within this Policy for the operations of GBC Winstone. In line with this, given the potential effects of the activities, I do not consider that it is appropriate to allow for the activities of GBC Winstone as a permitted activity within the Port Zone. The most appropriate way to ensure that the effects of such activities is managed through the resource consent process. This will ensure that the in order to achieve the objectives of the plan, to manage adverse effects on the coastal environment are achieved in line with s32 of the Act.
1038. For these reasons I recommend that submissions of GBC Winstone are rejected.
1039. PMNZ seek to make minor amendments to the operational requirements listed in Policy 13.7.3 order to better reflect the permitted activities of the Port Zone. Port Marlborough also seek a new permitted activity for 'Port Activities' is provided for within Rule 13.1.
1040. I have reviewed the permitted activity rules for the Port Zone contained within Volume 2 Chapter 13. I concur with PMNZ that for clarity and consistency across the plan, the operational requirements listed within Policy 13.17.3 should be amended to include, as part of (d) Port Engineering, as this is provided for as a permitted activity within Rule 13.1.6. In addition,

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<sup>249</sup> S32 Ports and Marinas Page 12

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Chapter 25 – Definitions, of the MEP provides a clear definition as to what activities fall within ‘Port Engineering’, which will aid interpretation of this provision.

1041. I also concur with PMNZ that the operational requirements within Policy 13.17.3 should be amended to include an additional operational requirement (e) Port Activities. While it is appreciated that a number of the activities listed within the definition of ‘Port Activities’ within Chapter 25 – Definitions, are specifically listed elsewhere within this Policy the inclusion of ‘Port Activities’ will assist in clearly reflecting all of the operational requirements of the port zone. I do not consider that there is a need for ‘Port Activities’ to be listed within Rule 13.1, given that all the activities that are defined as ‘Port Activities’ within Chapter 25- Definitions are provided for as permitted activities.

1042. In line with the above amendments I do not consider that it is necessary to provide for the inclusion of a reference to ‘permitted activities’ in Policy 13.17.3 given that the operational requirements listed, as recommended to be amended, will provide an accurate reflection of the permitted activities allowed within the Port Zone and the management framework of this zone. I therefore recommend that this aspect of the submission by PMNZ is rejected.

### Operational Requirements in the Marina Zone

#### **Submissions**

1043. Port Marlborough (433.069) supports Policy 13.7.4 to the extent it sets out the principal activities within the Marina Zone, but requests amendments to specifically refer to permitted uses within the zone and requests the removal of the word ‘commercial’ as a preface to the word ‘vessels’ within operational requirement (h) of Policy 13.17.4.

1044. Waikawa Boating Club (1233.006) and Pelorus Boating Club (1246.006) submissions are in support of the Policy however request that an additional operational requirement is included within the Policy to provide for ‘boating clubhouses and associated facilities’. Both of the submitting boating clubs have club houses located within the Marinas. They submit that the club house provides a social hub for not only club members but also others who use the facility from time to time, and these clubs form an integral part of the marinas.

1045. Port Marlborough has made a further submission (FS 955) opposing the addition of this activity as buildings are managed in the Marina Zone under specific rules, and the ‘marine administration’ definition includes clubhouse activities. However, PMNZ considers ‘boating club activities’ could be listed under clause (k) of Policy 13.17.4.

#### **Assessment**

1046. The purpose of a Marina is to provide for boat mooring that is primarily recreational. Therefore the operational requirement within (h) to allow for maintenance dredging of navigational channels (and associated works) only for the purposes of the safe passage and berthage of commercial vessels, is incompatible with the use of the zone. Any maintenance dredging

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activities are likely to be undertaken to ensure that the primary users of the marina, being recreational vessels could enter, use and exit the marina safely.

1047. Rules 15.1.21 within the Marina Zone provides for 'dredging and associated disturbance to the foreshore and seabed, to maintain water depth levels in and around berths and the mouth of the marinas, as necessary for ship berthage, manoeuvring and transit' (underline emphasis added). This is supported by the performance standards for this rule within Rule 15.3.13 that also makes no reference to a restriction on the activity to provide solely for the needs of commercial vessels. I concur with the submission of Port Marlborough to remove the word 'commercial' as a preface to vessel within Policy 13.17.4.
1048. Waikawa Boating Club (1233.006) and Pelorus Boating Club (1246.006) submissions request the inclusion of Boat Clubhouses within the operational requirements of the Policy.
1049. The explanatory text for the Policy outlines activities that may be included within marinas, and specifically refers to 'club facilities' although these activities are not specifically provided for within the operational requirements of the policy. It is noted that the other activities listed within the explanatory text, may also not be specifically referred to within the Policy but are considered to be covered within one of the operational requirement, i.e. restaurants is listed within the explanatory text, and commercial activities related to the operation of the port are provided for within (e). 'Club facilities' appears to be the exception to this with no corresponding operational requirement that it would 'fit in to'.
1050. In addition to the above, Rule 15.1.21 provides for use of a clubroom for a marine recreational group as a permitted activity. Rule 15.5.1 provides for the construction of a building or structure and associated occupancy within the zone as a restricted discretionary activity, subject to the building or structure being required for the operational requirements of the marina.
1051. It would therefore seem to be at odds if the use of a clubroom was provided for as a permitted activity, however if the building itself was not required for an 'operational requirement' the construction (or extension), the building would be a full discretionary activity.
1052. I agree within the submitters that a boating clubhouse would be an activity you would expect to find, and do in most cases find, within marinas in New Zealand. I agree that there is an operational need for this to be provided within the Marina Zone, to be in close proximity and available to those who are accessing boats from the marina.
1053. The inclusion of this operational requirement is consistent within the Objective to provide for the safe and efficient operation of Marina's. There are no costs associated with this inclusion to the Policy given that the activity is already provided for as a permitted activity within the zone. The benefit of the recommended inclusion is that the policy clearly acknowledges those activities that are anticipated, and do occur within the zone. It is considered that this amendment will be both effective and efficient and will be the most appropriate way to achieve the objective.
1054. I therefore accept the submissions and consider that an additional operational requirement should be provided within the plan to include 'clubrooms for use by marine groups.'

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1055. Aquaculture New Zealand (401.214) and Marine Farming Association (426.217) have submitted that Rule 15.1.21 should be amended to allow for 'the use of a marine recreation group clubroom', so that the rule does not limit the use of the clubroom to marine recreation groups, but allows the group to invite others to use its clubrooms. These submissions are supported by Red Sky Trust (FS425) and PMNZ(946) who consider that the amendment would provide for efficient use of the clubroom resource.
1056. While I appreciate the intention of the submissions, it is important to revert to the intention of the Policy and the Rule framework, being to manage effects on the coastal environment, and in the case of Marinas providing for activities that have an operational need to be located within the Marina Zone. I do not consider that by providing for a 'unfettered' use of clubrooms, will be consistent with this intention. I appreciate that the use of a clubrooms by marine groups is logical and expected within a Marina environment. Extending this however to use for any group, that may include business groups, conferences, weddings, social gatherings, are activities that do not have an operational need to be located within the Marina, and could result in adverse effects on the efficient operation of the marina zone (ie increased traffic and health and safety concerns).
1057. If Rule 15.1.21 was amended as proposed by submitters, it would allow the use of Marine clubhouses to occur as a permitted activity, without the ability of the Council to control the operation of the activity (ie number of visitors, hours of operations, number of events). This does not mean that marine clubhouses cannot be used for other activities, it just means the use of activity for other groups/events would be subject to assessment of effects through the resource consent process. I recommend that the submission of Aquaculture New Zealand (401.214) and Marine Farming Association (426.217) are rejected.

### **Recommendations**

1058. I recommend that the proposed Policy 13.17.4 is amended as follows;

*Policy 13.17.4 – Recognise and provide for the following operational requirements of Marina Zones in Picton, Havelock and Waikawa:*

- (a) shipping activities;*
- (b) loading and unloading of people and goods;*
- (c) transportation activities;*
- (d) marine fuel facilities;*
- (e) commercial activities related to the operation of a marina;*
- (f) ship repair and maintenance;*
- (g) building and structures (including on jetties), jetties, reclamation, mooring structures (excluding swing moorings) and slipways;*

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- (h) maintenance dredging of navigation channels, turning basins and berths for the purposes of safe berthage and manoeuvring of ~~commercial~~<sup>250</sup> vessels;
- (i) maintenance, repair and replacement of marina infrastructure;
- (j) placement and maintenance of navigation aids;
- (k) marina administration including security, servicing and maintenance activities; ~~and~~
- (l) signage; *and*
- (m) clubrooms for use by marine recreation groups<sup>251</sup>.

*This policy identifies the purpose of a marina and describes the operational requirements for these facilities in Picton, Havelock and Waikawa. As a result of their placement in the urban environment, marinas serve additional purposes to simple boat mooring and there is often demand for a variety of activities to be located in close proximity to a marina. These activities may include boat brokering, charter boat hire, chandlery, sail making, parking, boat building, boat maintenance, club facilities and restaurants. For this reason, district and regional rules will permit a wide range of activities in the Marina Zone. The types of activities permitted are consistent with high levels of public access, which is common in marinas. However, for some activities within the coastal marine area, including those that require reclamation, the erection of structures and (in some instances) disturbance of the seabed, consent will be required.*

### Industrial, Retail Activities and Commercial Activities within the Port and Marina Zones

1059. PMNZ seeks to include an additional operational requirement of 'industrial activities related to port activities' and 'retail activities' in Policy 13.17.3 and to provide for 'Industrial Activities' and 'Retail Activities' as a permitted activity in Rule 13.1. This submission is non-specific and could relate to a range of activities, with varying levels of association with port activities. Given the wide connotations of activities that this could apply to and provide for within the port zone, I do not consider that such a broad activity is appropriate.

1060. The nature of 'operational requirements' are ones that are considered necessary to take place within the Port Zone and emphasises the purpose of a Port<sup>252</sup>. I do not consider that 'related industrial activity' or 'retail activities' falls within an activity that has an operational requirement to be located within the Port Zone. The Port Zone is a defined, finite area and as a result, the activities provided within the Zone should be limited to those that are considered essential for the operation of the port as a permitted activity, with other activities assessed through the resource consenting process for their suitability within this zone.

1061. This is a departure from the MSRMP that provides for 'Industrial activities related to port activities' as a permitted activity, however this aligns within the intention of the MEP to provide

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<sup>250</sup> Port Marlborough 433.069

<sup>251</sup> Waikawa Boating Club 1233.006 and Pelorus Boating Club 1246.006

<sup>252</sup> Explanation to Policy 13.17.3

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clear direction around those activities that are compatible with the intent of the Zone and to ensure that activities without an operational requirement to be located within the Port Zone be assessed though the resource consent process for their suitability to locate there<sup>253</sup>.

1062. As outlined within the s32 report on this topic "In relation to the coastal environment, NZCPS Policy 6(e) outlines the need to *'consider where and how built development on land should be controlled so that it does not compromise activities of national or regional importance that have a functional need to locate and operate in the coastal marine area.'* In the case of ports, this is further reinforced by Policy 9 of the NZCPS which states that a sustainable national transport system requires an efficient network of ports. It is important therefore that activities located within the zoned boundaries have an operational requirement to be located there. This is particularly important in the case of the ports and marinas in Picton, Havelock and Waikawa, which have been identified as regionally significant infrastructure"<sup>254</sup>.
1063. S2 of the RMA provides a definition of industrial or trade premises, which 'includes any premises used for industrial or trade purposes, or premises used for storage, transit ect of waste and other premises, or other premises from which a containment is discharge in connection with any industrial or trade premises'. 'Retail sales' are defined in Chapter 25 – Definitions of the MEP as 'the direct sale of hire to the public and display or offering for sale or hire to the public of goods, merchandise or equipment...'.<sup>254</sup>
1064. Given the possible broad scope of the requested operational requirement (being the range of activities that could occur as an 'industrial activity' or a 'retail activity'), and the potential adverse effects associated with these activities including the potential of discharge of contaminants within a sensitive environment of the coastal marine area and coastal environment, increased traffic, I consider the relief sort by PMZN extends beyond the operational requirements that should be provided for in the Port Zone. It is noted that this will not necessarily prevent these activities occurring within the Port Zone, but will require that an assessment of the effects of the such an activity is considered through the resource consent process.
1065. The Plan through Policy 13.17.9 recognises that there is a shortage of available land in Havelock for activities outside of operational requirements of the port, and provides criteria that decision makers must consider for resource consent application proposing activities outside operational requirements.
1066. PMNZ also seek a permitted activity be provided for 'commercial activities related to marina activities' within Rule 15.1 of the MEP. Again this relief sought is broad. PMNZ does not provide examples of the types of activities that it wishes be provided for. As a result, there is a broad range of activities, with varying levels of association with marina activities that could be captured in such a permitted activity.

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<sup>253</sup> Section 32: Chapter 13 – Ports and Marinas Pg 3

<sup>254</sup> Section 32: Chapter 13 – Ports and Marinas Pg 13

1067. I refer to the definition of 'Commercial Activity' within the Chapter 25- Definitions of Volume 2 of the MEP, where commercial activity means "*the use of the land, buildings or space for the display, offering, provision, sale, servicing or hire of goods, services, equipment, and includes shops, markets, showrooms, premises licensed for the sale of liquor, restaurants, takeaway foodbars, professional, commercial and administrative offices, places of assembly, places of recreational activities and facilities, and passenger transport facilities*".

1068. Given the scope of the definition of Commercial Activity and the range of potential adverse effects associated with these activities, I consider it is appropriate for these effects to be assessed through the resource consent process on a case-by-case basis. This process allows an assessment of the suitability of the particular activity and its relationship with marine activities and therefore whether the activity needs to be located within the Marina Zone. For these reasons I recommend that submission point 433.156 of PMNZ is rejected and that the activity status for commercial activities in the Marina Zone remain as a Discretionary activity.

### **Recommendation**

1069. I recommend that the proposed Policy 13.17.3 is amended as follows;

***Policy 13.17.3 – Recognise and provide for the following operational requirements of Port Zones in Picton and Havelock:***

- (a) shipping activities;***
- (b) loading and unloading of ships, cargo handling, storage of cargo and some processing of cargo;***
- (c) transportation activities and passenger terminals;***
- (d) [port engineering](#)<sup>255</sup>, ship building, repair and maintenance;***
- (e) [port activities](#)<sup>256</sup>;***
- (f) marine fuel facilities;***
- (g) building and structures (including on wharves), wharves, reclamation, mooring structures and slipways;***
- (h) maintenance dredging of navigation channels, turning basins and berths for the purposes of safe berthage and manoeuvring of commercial vessels;***
- (i) maintenance, repair, removal and replacement of buildings and structures;***
- (j) quarantine and border control activities;***
- (k) placement and maintenance of navigation aids;***
- (l) port administration including security, servicing and maintenance activities; and***
- (m) signage.***

*This policy identifies the operational requirements for the ports in Picton and Havelock and emphasises the purpose of a port. A wide range of activities in the Port Zones will be permitted*

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<sup>255</sup> Port Marlborough 433.068

<sup>256</sup> Port Marlborough 433.068



*by district and regional rules, subject to meeting standards. However, for some activities within the coastal marine area, including those that require reclamation, the erection of structures and in some instances the disturbance of the seabed, consent will be required. Some land based activities will also require consent, including certain forms of cargo processing, particularly where this has the ability to create adverse environmental effects and/or where there are servicing requirements.'*

## Shipping Activities within the Port Zone

### **Submission and Assessment**

1070. PMZN (433.100) submits that the use of service lines to ships which are berthing at the port is a common activity of PMNZ, and accordingly, this specific activity should be provided for as a permitted activity in the Port Zone. They submit that the wording of the Rules should be amended to read "13.1.1 Shipping activities, as follows: movement and other activities associated with the berthing and departure of ships, ship anchorage, ship docking and berthage, and mooring activities (except swing moorings) and the placement and use of service lines to ships.

1071. The submission of PMNZ does not include details of the nature of the service lines that are requested to be included within the Rule. I have assumed, for the purpose of this assessment that this would involve the provisions of services such as power or water, or other 'services', from land to the ship, for the time in which a ship is docks, or is berthed within the Port Zone. Given this, I would consider that this is likely to be an activity would fall within the 'other activities associated with', within the Rule.

### **Recommendations**

1072. For these reason I consider that the activities as contemplated by the PMNZ within their submission are provided for within the Rule, and as such I do not consider that any amendments to the MEP are required to give effect to the relief sought. I therefore recommend that the submission is accepted in part.

## Processing of Cargo

### **Submissions**

1073. PMNZ (433.100, 120) seek that the exemption to the processing of wood and forestry within Rule 13.1.4 is removed.

1074. PMNZ submit that a large part of their business relates to supporting forestry exports from Marlborough. Within their submission they state the Ports in Marlborough receive approximately 700,000 tonnes of plantation logs per year, and these are stored in the port zone before being loaded onto ships for transportation. PMNZ submit that provision for appropriate processing of logs and timber products should be anticipated by the MEP to enable

economically efficient logistics management for forestry and timber export activities. Specific activities that may be required include de-barking of logs, or treatment with insecticides or other materials through fumigation. Therefore, PMNZ seeks that this activity be provided for (with appropriate standards, which are already contained in this chapter of the MEP) within the Port zone.

**Assessment**

1075. Processing is 'to perform a series of mechanical or chemical operations on (something) in order to change or preserve it'<sup>257</sup>. The S32 report for Policy 13.17.3 states that some-land based activities will require consent, including certain forms of cargo processing (as outlined within Rule 13.1.4), particularly where this has the ability to create adverse environmental effects and or where serving requirements exist<sup>258</sup>. It is not clear however, within the s32 or within any other related documentation, why wood processing and forestry has been specifically excluded from the Permitted Activity regarding cargo processing. All I can conclude from the s32 is that this is because the Council are concerned about the ability of this activity to result in adverse effects on the environment.
1076. I can also find no analysis within the s32 about why the permitted activity rule relates only to cargo delivered by a ship to the port for processing, and does not relate to cargo that may be delivered overland to the port for processing prior to being shipped.
1077. I have been provided no information from the submitter about the processing of logs and forestry that is likely to occur at the port for me to be able to assess what the potential effects of this activity are. I do concur with the submitter that it is likely that the majority of effects that I anticipate (ie noise, dust, waste discharge and discharge to land, water or air) are controlled within the standards for the Rule and within other standards that apply to all permitted development. However, given the specific identification of this activity as an exemption to the Rule, I am minded to be concerned that there is the potential for other adverse effects to occur.

**Recommendation**

1078. Due primarily to the lack of information available from both the Council and the submitter, I recommend that a precautionary approach is taken, and that the Rules 13.1.4 and 13.3.1 are retained as notified.

**Living Accommodation within Port and Marina Zones**

1079. Living accommodation within the Port Zone, for port and marina staff is provided for as a permitted activity within the Port and Marina Zones through Rules 13.1.14 and 15.1.10, subject to the permitted activity standards contained within Rules 13.3.5 and 15.3.4. These standards require that the accommodation is provided for on-site and is ancillary to the operation of the

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<sup>257</sup> Oxford Dictionary - Processing

<sup>258</sup> S32: Chapter 13- Ports and Marinas pg 12

port/marina, and that the accommodation must only be provided to employees of the operator of the port/marina.

1080. Policy 13.18.3 recognises that noise producing activities occur within the Port and Marina Zones and seeks to ensure that the potential for reverse sensitivity effects arising from noise-sensitive activities, including living accommodation, located in zones adjoining the port and marina zones is minimised by (b) avoiding residential activities within marina.

### ***Submissions***

1081. PMNZ (433.104) opposes the requirement for only employees of the port and marina to use the accommodation, and for the accommodation to be 'on-site' within the Port and Marina zone. PMNZ submit that they also accommodate contractors within the Port and Marina zones, and the accommodation should be enabled on any site in the Port and Marina zones.

1082. PMNZ considers that standard 13.3.5.1, and 15.3.4.1 associated with this rule is confusing. Determining what comprises 'on-site' is problematic as the accommodation could be anywhere within the Port or Marina Zones. It is also unclear to PMNZ what the standard requiring accommodation be ancillary to port and marina operations is seeking to achieve. PMNZ consider the requirement for the accommodation to be limited to staff or contractors will be sufficient to manage this.

1083. Port Marlborough (433.104) opposes the requirement for only employees of the port and marina to use the accommodation, and for the accommodation to be 'on-site'. PMNZ also accommodate contractors within the Port and Marina zones, and the accommodation should be enabled on any site within the Port and Marina zones.

1084. Port Marlborough (433.078) submit that Policy 13.18.3 be amended to acknowledge that worker accommodation is provided for within the Marina Zone, and Nelson Marlborough District Health Board (280.064) submits that the Policy is contradicted by the Rules in Volume 2 which provide for conditional development.

### ***Assessment***

#### **Policy 13.8.3**

1085. The intention of Policy 13.18.3 is to control the potential for reverse sensitivity effects in zones adjoining the Port, Port Landing Area, and Marina Zones. This is achieved by avoiding noise sensitive activities encroaching on these areas. One method of doing this is through the use of noise control contours<sup>259</sup> around the Ports of Picton (including Shakespere Bay) and Havelock, and by making noise sensitive activities within the Inner Noise Boundary a prohibited activity within the Port Zone<sup>260</sup>.

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<sup>259</sup> Volume 4 Overlay – Noise Control Boundaries

<sup>260</sup> Volume 2 Rule 13.6.7

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1086. It is noted that within the Port and Marina Zones, living accommodation for Port and Marina staff is provided for as a permitted activity in Rules 13.1.14 and 15.1.10 within these zones<sup>261</sup>.

1087. I concur with the submissions that the Policy does not accurately reflect the Rules that are provided for within Volume 2. 'Living accommodation for workers' is provided for as a permitted activity within the Port and Marina Zone. This appears to be contrary to criteria (b) of Policy 13.8.3 which requires the avoidance of residential accommodation within the Marina Zone, and contrary (as submitted by Port Marlborough) to reality in which accommodation is provided within these zones presently.

1088. I think you need to state why you've gone with amending the Policy and not amending the Rule. Just to be really clear as it could easily be a decision to remove the living accommodation from the rule to make the existing stuff rely on existing use rights. Just need to ensure you are meeting the s.32 tests here.

1089. For these reasons I recommend that proposed Policy 13.18.3 is amended as follows;

**Policy 13.18.3 – Ensure the potential for reverse sensitivity effects arising from any noise-sensitive activities located in zones adjoining and within Port, Port Landing Area and Marina Zones is minimised by:**

**(n) avoiding encroachment of residential activities towards and around ports /port landing areas; and**

**(o) avoiding residential activities (with the exception of living accommodation for Port and Marina staff) within the port and marina zones.**

*One of the most significant amenity effects arising from the operation of ports, port landing areas and marinas is the generation of noise. Ports, especially in Picton and Havelock and marinas in Picton, Waikawa and Havelock operate in close proximity to residential areas and subsequently there is potential for noise to be an issue for nearby residents. To enable the ports, port landing areas and marinas to operate efficiently while also protecting health and<sup>262</sup> amenity values for nearby residents, it will be necessary to avoid residential activities encroaching on these zones. Standards will therefore be imposed for residential activities through the use of noise contours, which reflect the present level of effect experienced by adjacent properties.*

1090. In response to the submission by PMNZ that the standards for living accommodation within the zones should also apply to contractors of the operator of the port or marina, I consider that it is the intention of the Rules to provide for staff working at the port or marina. However in reality as pointed out by PMNZ, staff operating at the port or marina may not be direct employees of the PMNZ but contracted to PMNZ through another employer. I consider that an amendment to the standards to the permitted activity rule to allow for contractors of the Port operator will provide

<sup>261</sup> Volume 2 Rules 13.1.14 and Rule

<sup>262</sup> Nelson Marlborough District Health Board (280.064)

clarity to the intent of the rule. For these reasons I recommended that the submission of PMNZ is supported and recommend that Permitted Activity Standards 13.3.5 and 15.3.4 are amended as follows;

**XX.X.X** *Living accommodation facility for port staff.*

XX.X.X.X *The accommodation must be on-site and ancillary to the operations of the port.*

XX.X.X.X *The accommodation must only be provided to employees or contractors<sup>263</sup> of the operator of the port.*

## Manual scraping of anti-foul paint coating or bio-foul waste from a ship

### Submissions

1091. Four submissions were received in relation to Rules 13.1.11 and 15.1.7 which provide for the manual scraping of anti-foul paint coating or bio-foul waste from a ship within the Port and Marina Zones.

1092. The submissions relate to;

- The need to provide for in-water microfouling of ships<sup>264</sup>
- The requirement that the activity must not be undertaken within 10m of the coastal marine area<sup>265</sup>
- Inclusion of the Rule within the Port Landing Area Zone<sup>266</sup>.

1093. The Department of Conservation (DOC), New Zealand Defence Force (NFDF) and the Ministry for Primary Industries (MPI) submit that the permitted activity rule does not provide for the in-water cleaning of micro-fouling from a ship hull. They all submit that this activity may have minimal impact on the release of contaminants and will assist in prevention of macro-fouling from occurring.

1094. The submissions state that in-water cleaning of vessel hulls and structures is an important tool for both routine maintenance of early stage biofouling and emergency management of significant biosecurity risk (when using approved recapture technologies and suppliers). It is recognised under the Australia and New Zealand Anti-fouling and In-water Cleaning Guidelines<sup>267</sup> that the acceptability of in-water cleaning risk is dependent on factors such as vessel type, level and type of fouling (whether it is established in the location), and whether the capture of biofouling discharge will be achieved to an acceptable extent.

<sup>263</sup> PMNZ (433.104)

<sup>264</sup> New Zealand Defence Force (992.068), DoC (479.239,240,241, 242), MPI (973.003, 004), Aquaculture NZ (401.235), Marine Farming Association (426.231), Sanford Limited (1140.052)

<sup>265</sup> PMNZ (433.121)

<sup>266</sup> PMNZ (433.145)

<sup>267</sup> <http://www.agriculture.gov.au/biosecurity/avm/vessels/biofouling/anti-fouling-and-inwater-cleaning-guidelines>

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1095. The submitters therefore request that Council amend the provisions relating to the removal of biofouling to include provisions for in-water cleaning, with standards that take into consideration the guidance in the Australia and New Zealand Anti-fouling and In-water Cleaning Guidelines. This submission is support by PMNZ (FS981) and NZDF (FS1005).
1096. PMNZ (433.121) submit that Rule 13.3.4.1 that restricts manual scaping from occurring within 10m of the coastal marine area is unnecessarily limiting as this activity typically takes place in close proximity to the CMA and is managed to ensure that contaminants do not enter the CMA, and requests that the rule is deleted. They consider that Standard 13.3.4.4, which requires that no paint shall enter any waterway including the CMA, ensures that potential adverse effects arising from the manual scraping of anti-foul paint are appropriately managed.
1097. PMNZ (433.145) submit it is unclear why there is no rule providing this activity within the Port Landing Area zone. PMNZ seeks that this activity is permitted in the Port Landing Zone subject to the same standards specified in the Port zone.

### **Assessment**

#### In water-bio fouling

1098. The submissions from MPI and DOC have highlighted that in water bio-fouling is an activity that takes place within the coastal marine area and is important to occur for both routine maintenance of boats and to manage biosecurity risk but which has not been clearly or specifically provided for within the MEP.
1099. The submitters have not detailed how often this occurs, or how this activity is currently managed, and it is not managed within the operative MSRMP.
1100. Within the MEP any activity that is not provided for specifically as a permitted activity within the Port, Marine Port Landing or Coastal Marine Zone, would require resource consent as a discretionary activity<sup>268</sup>. Manual scraping of bio-foul waste is provided for a permitted activity within the Port and Marina Zones, but standards for the activity restrict it from occurring within 10m of the coastal marine area.
1101. I have reviewed the Australia and New Zealand Anti-fouling and In-water Cleaning Guidelines (the guidelines), which assist authorities to decide the appropriateness of in-water cleaning on a case-by-case basis. The aim of the guideline is to minimise contamination and biosecurity risks associated within in water maintenance of vessels<sup>269</sup>.
1102. Part 2 of the Australia and New Zealand Anti-fouling and In-water Cleaning Guidelines is divided into two sections. Part A to determine the environmental risk of in-water cleaning, and Part B provides specific guidance on situations where in-water cleaning may be acceptable and conditions that may be appropriate.

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<sup>268</sup> Rule 13.5.1, Rule 14.4.1, Rule 15.6.1 and Rule 16.6.1

<sup>269</sup> <http://www.agriculture.gov.au/biosecurity/avm/vessels/biofouling/anti-fouling-and-inwater-cleaning-guidelines> pg 2

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1103. As outlined within Appendix 5 of the guidelines, 'Microfouling is a layer of microscopic organisms, often referred to as a slime layer, and can usually be removed by gently passing a finger over the surface. This is compared with 'Macrofouling' which is the removal of large organisms visible to the eyes, such as barnacles, tubeworms or other large attached organisms<sup>270</sup>.
1104. Figure 1 of the guidelines provides a 'Decision support-tool for in water clearing to assist relevant authorities in making decisions about in water cleaning practices'. Figure 1 identifies that in-water cleaning of microfouling may be acceptable without the requirement to contain cleaning waste, provided that conditions are met<sup>271</sup> and non-abrasive cleaning method is used to avoid contaminant risk and coating damage.
1105. I consider that the guidelines contained within the Australia and New Zealand Anti-fouling and In-water Cleaning Guidelines, provide sufficient direction to identify when in-water cleaning of microfouling is acceptable, and ensure that the risk of contaminants entering the coastal marine area would be limited.
1106. Clause 30(1) of Schedule 1 of the RMA provides for the incorporation of documents by reference in a proposed plan if the document is a (a)... recommended practices of international or national organisations, or (b) .... Recommended practices prescribed in any country of jurisdiction. I consider that the Australia and New Zealand Anti-fouling and In-water Cleaning Guidelines are suitable for incorporation with the MEP and will provide sufficient guidance and control for the activity.
1107. The New Zealand Defence Force has suggested wording in their submission, based on the Proposed Natural Resources Plan for Wellington Region. I have reviewed this wording alongside the guidelines, and consider that some of the wording suggested is appropriate to provide standards for the activity that align with the direction in the guidelines.
1108. I consider that including provisions, namely permitted development rules within the MEP, that provide for 'in-water microfouling' as a permitted activity within the Port, Marine, Port Landing Area and Coastal Marine Zones, will be efficient and effective in achieving the objectives of the Plan and in turn, the purpose of the Act while mitigating the effects of this activity of the environment. The provisions would be efficient in enabling a maintenance activity to be undertaken, that will assist in reducing biosecurity risks to the Marlborough Coastal Marine area. The guidelines, to be incorporated within the plan will provide sufficient control to ensure the effects on the environment are mitigated. For these reasons I consider that the recommended changes to the plan would be an effective and efficient in achieving the purpose of the Act, and the objectives and policies of the MEP.

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<sup>270</sup> <http://www.agriculture.gov.au/biosecurity/avm/vessels/biofouling/anti-fouling-and-inwater-cleaning-guidelines> Appendix 5

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<sup>271</sup> <http://www.agriculture.gov.au/biosecurity/avm/vessels/biofouling/anti-fouling-and-inwater-cleaning-guidelines> Appendix 5

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**Recommendation**

1109. I recommend that the Permitted Activity Rules within the Port, Port Landing Area, Marina and Coastal Marine Zone are amended to provide for a new permitted activity namely;

*XX.X In-water cleaning and removal of microfouling of ships, moveable structures of navigation aids*

1110. I recommend that the Standards that apply to Permitted Activity within the Port, Port Landing Area and Marina Zones are amended to provide new standards for the above permitted activity namely;

*XX.X.X In-water cleaning and removal of microfouling of ships, moveable structures of navigation aids*

*XX.X.X.X 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*

*XX.X.X.X The cleaning method shall be undertaken in accordance with the coating manufacturer's recommendations; and*

*XX.X.X.X 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*

*XX.X.X.X Any captured cleaning debris is appropriately disposed of, and*

*XX.X.X.X If suspected harmful or unusual aquatic species are found, the vessel owner or operator shall take the following steps:*

*(i) Any cleaning activities shall cease immediately;*

*(ii) The Harbourmaster shall be notified within five working days; and*

*(iii) The cleaning may not recommence until notified by the Council to do.*

1111. I recommend that a new definition is added to Volume 2- Chapter 25 Definitions, namely

*"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."*

**Assessment**

1112. PMNZ (433.121, 164) submit that Rules 13.3.4.1 and 15.3.3.1 that restrict the manual scraping of anti-foul or biofoul waste from a ship from occurring within 10m of the coastal marine area is unnecessarily limiting as this activity typically takes place in close proximity to the CMA, and is managed to ensure that contaminants do not enter the CMA. PMNZ requests that rule is deleted.



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1113. It is clear that the intention of this rule is ensure that the activity does not result in any anti-foul, bio-foul or contaminants entering the coastal marine area.
1114. The submission by PMNZ states that standards within the rule, namely standards 13.3.4.2-13.3.4.5, if complied with, will ensure that regardless of the location of the activity in proximity to the coastal marine area, and the intention of the rules will be achieved.
1115. My assumption is that the intention of standard 13.3.4.1 is to apply a 'belt and braces' approach to the rule, to effectively add a buffer around the coastal marine area to help to reduce the chance of the discharge of contaminants entering the coastal marine area from this activity. There has however been no information supplied by the Council, in the s.32 report about why the distance of 10m from the coastal marine area has been applied. It is also noted that no similar standard applies within the Operative MSRMP.
1116. I acknowledge that in reality, this activity takes place within the Port and Marina Zones, in locations closer than 10m to the coastal marine area. I also appreciate that in some existing operations, and given the limited area of the Port and Marina Zones that this is likely to occur.
1117. There are general rules that apply to the discharges of water, namely stormwater and coastal water contained within Volume 2- Chapter 2 - General Rules of the MEP. These rules add another element of protection to ensure that any discharges to coastal water are required to meet standards that apply after reasonable mixing<sup>272</sup>.
1118. Permitted standard 13.3.4.1, by restricting the activity to beyond 10m of the coastal marine area, will ensure that ensures that this activity is not undertaken within the coastal marine area. The other standards within Rule 13.3.4 provide for methods of control that must be used to control the release of contaminants. These standards, although difficult to comply with within the water, do not prevent the activity taking place within the coastal marine area.
1119. For these reason, I consider that it is within the scope of the submissions, to amend the rule, to remove the 10m distance restrictions from the coastal marine area, however maintain a restriction that prevents the activity from taking place within the coastal marine area.
1120. I consider that the amendments to the standards will ensure that the intention of the rule, to prevent discharge of contaminants associated with the activity within the coastal marine area, can still be achieved, and as such will be effective in achieving the objectives and policies of the MEP.
1121. I also consider that the amendment will be efficient in achieving the objectives of the MEP, as it will enable those undertaking these activities within the Port and Marina Zones, to undertake activities without restrictions on locations, which are activities that are common place within the Port and Marina Zones. This is an activity that contribute to the social and economic wellbeing of ports and marinas in Marlborough. The standards will ensure that there will be no additional

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<sup>272</sup> MEP, Volume 2, Chapter 2 – General Rules, Rule 2.17.4 and 2.17.5

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costs to the environment, and as such the provisions are efficient in terms of an assessment against the requirements of s32 of the Act.

1122. PMNZ also seek that the activity is provided for within the Port Landing Area Zone as a permitted activity. The operational requirements identified within Policy 13.7.5, and the intention of the zone seek to provide for activities (primarily associated with marine farming) occurring within these areas that do not currently have an appropriate management framework, but to also limit activities that may have adverse effects within these more sensitive environments.

1123. I consider that the Marina and Port Zones, provide for such an activity, and that these are more appropriate locations, away from sensitive environments in which an activity of this nature could and will occur.

### **Recommendation**

1124. For the reasons outline above I recommend that Permitted Activity Standards 13.3.4.1 and 15.3.3.1 are amend to read;

XX.X.X Manual scraping of an anti-foul paint coating or bio-foul waste from a ship.

XX.X.X.X The activity must not be undertaken within  
~~40m of~~<sup>273</sup> the coastal marine area.

### Air-Blasting

1125. PMNZ (433.163) have submitted in relation to Rule 15.3.2.1 Maintenance, Repair and Storage of a Ship with the Marina Zone, where they consider that the exclusion of abrasive blasting is overly onerous and is an activity that can occur within the Marina Zone, provided the contaminants arising from the activity are appropriately managed, and the activity does not occur within the CMA. They seek that the standard is amended to restrict the activity from occurring within the coastal marine area.

1126. It is noted that air-blasting is currently not provided for as a permitted activity within the Marina zone of the MSPMP and as such any air-blasting currently being undertaken within the Marina Zone would require resource consent as a controlled activity pursuant to Rule 34.2 of the MSRMP. This is the same management approach taken within the MEP under Rule 15.4.3. I note that Port Marlborough has not made a submission on Rule 15.4.3.

1127. PMNZ has not provided any information to demonstrate that the current or proposed management framework for abrasive blasting is onerous or inappropriate for a controlled activity resource consent application to be required.

1128. For these reason, I recommend that the submission on PMNZ is rejected.

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<sup>273</sup> PMNZ (433.121, 164)

## Replacement of a submarine or suspended line or cable

### **Submissions**

1129. Chorus (464.069, 054, 066, 067, 068) and Spark New Zealand (1158.58,59 60, 61,62,) both submit that permitted activity Rules 13.1. 19, 14.1.9 and 15.1.16 and Rules 13.3.9.2, 14.3.4.2, 15.3.8.2 should allow for a replacement cable or line in the same or similar location as the cable or line being removed. They submit that requiring the line to be in the same position is impossible, as generally the line that is being replaced needs to remain operational until the replacement line is connected. As such, they seek that the standard be amended to say same or similar in order to allow the changeover between the lines.

### **Assessment and Recommendation**

1130. While I appreciate the submissions of Chorus and Spark, I consider that the proposed wording as suggested within the submission, is vague and lacks the clarity required to provide certainty to plan users and decision makers. These rules provides a standard within which a permitted activity can occur, and there has been an assessment by the Council that such activities are unlikely to generate adverse effects and should therefore be permitted. Standards are applied to ensure that adverse effects do not occur. The wording 'or similar' creates uncertainty as to what would fall under permitted, i.e. a replacement cable next to the existing, or within 5m or more from the existing. The further away from the existing cable, the more potential there is for unanticipated adverse effects to occur. I am open for the submitters to provide further information on the nature of such activities at the hearing for consideration, however at this time I recommend that the submissions of Chorus and Spark be rejected.

## Filling of Land with Clean Fill

### **Submissions**

1131. Two submissions were received in relation to the permitted activity rules 13.3.18.1, Rule 14.3.9.1 and Rule 15.3.17.1 relating to the filling of land with clean fill.

1132. Nelson Marlborough District Health Board (NMDHB) (280.042) submits the permitted activity standards for filling an area with clean fill do not specify what materials constitute 'clean fill' and request that a permitted activity standard is added which specifies acceptable clean fill materials in accordance with the Ministry for the Environment's 'A guide to the management of cleanfills' (2002) or other best practice standards. This submission is supported by PMNZ (FS940) in that they consider it is important that the relevant standard is stated in the rule.

1133. Port Marlborough (433.124) opposes Rule 13.3.18.1 on the basis that it is unclear what comprises of 'commercial clean fill' and this is not defined within the MEP.

### **Assessment**

1134. I acknowledge the submission by NMDHB. A definition of Cleanfill is provided within Volume 2 - Chapter 25 - Definitions of the MEP, where Cleanfill is defined as; *Material that does not have*

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*the potential to contaminate the environment. This material includes clay, soil, rock, concrete, Brick or demolition products that are free of combustible, organic materials and contaminants and are, therefore, not subject to biological or chemical breakdown. This will involve bulk filling operations where material is required to be carted to the filling site or specifically placed there rather than cut to fill operations such as normally occurs with construction of tracks, roads and landings.*

1135. I note that NMDHB has not made a submission on the definition of 'Cleanfill' within Chapter 25.
1136. I refer the definition of 'Cleanfill' provided within Section 2.2. of the Ministry for the Environment's 'A guide to the management of cleanfills' (2002) at page 6, which states "*Cleanfill material is material that does not undergo any physical, chemical, or biological transformations that will cause adverse environmental effects or health effects once it is placed in a cleanfill. Cleanfill material has no potentially hazardous content and must not be contaminated by or mixed with any other non-cleanfill material.*"
1137. I consider that this definition is consistent with the definition provided within the MEP, and as such, there is appropriate guidance existing within the MEP as to what constitutes 'Cleanfill'. I do not consider that the guidance referred to by the submitter should be referred to within the MEP, given that its inclusion would give the document legal effect as part of the plan<sup>274</sup>, and such guidance could be subject to change over time, and therefore would require the MEP to be updated with the relevant guidance when changed, and this will be a time consuming and onerous process for the Council with limited benefits. I consider that there is suitable consistency of cleanfill definition within the two documents. I recommend that the submission of NMDHB is rejected.
1138. In reference to the assessment above, I concur with the submission of PMNZ, that there appears to be no reason that 'commercial' cleanfill is excluded, provided that the fill can meet the definition of 'cleanfill' as contained within Chapter 25-Definitions of the MEP. It would seem unnecessary to differentiate between 'commercial' cleanfill and 'other' cleanfill if both are required to have the same properties, that being material that does not have the potential to contaminate the environment.

### **Recommendation**

1139. For the reasons outlined above I recommend that the submission of PMNZ is accepted, and that Rule 13.3.18.1, Rule 14.3.9.1 and Rule 15.3.17.1 are deleted.

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<sup>274</sup> <http://www.qualityplanning.org.nz/index.php/component/content/article/35-plan-development/136-guidance-note-on-writing-plans>

## Indigenous vegetation clearance

### *Submissions*

1140. PMNZ (433.148, 158, 171) submit It is unclear why there is no rule providing for indigenous vegetation clearance in the Port Landing Zone and Marina Zone, and PMNZ seeks that this activity is permitted in the Port Landing and Marina Zones zone subject to the standards specified in the Port zone.

### *Assessment*

1141. In respect of the Port Landing Area Zones at Elaine Bay and Oyster Bay it is clear, when comparing the zoning maps to the aerial photographs of these zones (see Figures 4 -7) that the extent the Port Landing Zone boundaries reflect the area of infrastructure in these areas, and that there is minimal, if any indigenous vegetation currently present within these zones.

1142. I consider it is for this reason that a rule for indigenous vegetation has not been included within the Port Landing Area Zone rules. I however the submitter considers that there are some areas where indigenous vegetation is present, or could be accommodated within the Port Landing Area Zones, I would be will to reconsider the application of a rules within this zone.

1143. In respect of the Marina Zone, in particular in Waikawa, it is appreciated that the area adjacent to the Waikawa Marina extension has indigenous vegetation along the coastal margin. This is located however outside of the Marina Zone, and there have been no applications by PMNZ or any other submitter to re-zone this area from Open Space 3 to any other zoning.

1144. In light of my conclusion reached within the Port Landing Zone, I am compelled to make the same findings in relation to the Marina Zones. Once again if the submitter can provide information as to why the indigenous vegetation rule is necessary within the Marina Zone, I would be happy to reconsider the application of this rule.

1145. For the above reason I recommend that the submission of PMNZ is rejected.

## Temporary Scientific Moorings

1146. The MEP provides for the temporary scientific monitoring structures or equipment in the coastal marine area (i.e. within the Port, Port Landing Area, Marina Zone and Coastal Marine Zone) as a permitted activity through Policy 13.10.1, and through rules within each zone. These rules provide for a 'Temporary Structure or equipment for scientific monitoring purposes' as a permitted activity subject to standards that;

- prevent the structure being located longer than 31 days;
- restrict the size of the structure to 2m in length, 2m in width and 1.5m in height;
- require the provision of GPS mapping co-ordinates and description of structure to be provided to the harbourmaster, and;

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- the structure must not adversely effect navigational safely.

### **Submissions**

1147. All submission received, are in opposition to, or requested amendment to the provisions relating to temporary scientific monitoring structures or equipment as notified, on the basis that;

- The 31-day period is too limiting, and often much longer periods are required in order to obtain good scientific data (ie extending over seasons)<sup>275</sup>;
- The process of obtaining resource consent is long, expensive and unnecessary; and
- Permanent structures should also be provided for as a permitted activity<sup>276</sup>.

### **Assessment**

1148. Structure is defined in s2 of the RMA as “means any building, equipment, device, or other facility made by people and which is fixed to land; and includes any raft’s”.

1149. Scientific monitoring and equipment therefore includes the part of the structure that attaches the structure to land i.e. the ropes, chains and anchor or anchor block.

1150. In determining if it is appropriate to provide for a scientific structure within the coastal marine zone for a period longer than 31 days it is necessary to assess the potential effects of this activity on the environment.

1151. As outlined within the explanation to Policy 13.10.1 it is considered that the temporary location of scientific monitoring equipment (and navigational aids also provided for within the Policy and rules) will not usually involve the significant occupation of, or alteration to the coastal marine area.

1152. Any other structure within the coastal marine area requires a resource consent, with the matters outlined within Policy 13.10.5 being used to determine if such a structure is appropriate along with Policies 13.1.1 and 13.1.2.

1153. Turning to Policy 13.1.1, there is a requirement to avoid adverse effects on areas identified as having significant marine biodiversity. In addition, as outlined within paragraphs 72-73 there is clear direction from the higher order documents of the RMA and NZCPS to avoid adverse effects of activities on these areas.

1154. The report of Davidson Environmental Ltd Report ‘Reassessment of selected significant marine sites (2014-2015) and evaluation of protection requirements for significant sites with benthic values’, prepared for the MDC and DOC dated November 2015, identifies sites that are sensitive to disturbance. As a result I consider that there is a need to exclude scientific monitoring equipment as a permitted activity from Category A marine sites. These sites have

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<sup>275</sup> Aquaculture NZ (401.230, 231, 232, 233), Marine Farmers Association (426.229), Jonathan Gardner (79.001) and Eric Jorgensen (404.049), Sanford Limited (1140.051), Cawthron Institute (613.001) and Port Marlborough (FS 977)

<sup>276</sup> Friends of Nelson Haven and Tasman Bay Incorporated 716.193

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been identified as sensitive to most forms of seabed disturbance, and as such it follows that structures that would disturb the seabed should not be permitted within these areas.

1155. An assessment against Policy 13.2.1, requires an assessment of the activity, being scientific monitoring equipment for a period of longer than 31 days, against the values of the coastal environment identified within the Policy 13.2.1. This includes an assessment of the effects of the activity on natural character, cultural values, character of open space, public access and the dynamic, complex and independent nature of coastal ecosystems and coastal amenity.
1156. I consider that a structure within the coastal marine area, for a timeframe of greater than 31 days has the potential to have adverse effects on the identified coastal values, that require assessment through the resource consent process.
1157. I consider there may be valid concerns from users of the coastal marine area that a structure, that could be in place for a number of years, may have adverse effects on particularly amenity values (visual and recreational), natural character values, cultural values and the character of the open space and coastal ecosystems, particularly as a result of the 'mooring' used to affix some structures to the seabed.
1158. I appreciate that there is likely to be a range of 'structures' to which this rule applies, some of which will be likely to result in significantly less adverse effects than others. I see however that this is the role of the resource consent process to assess the appropriateness of each structure on a case-by-case basis, and this process is provided for within the MEP.
1159. I have not been provided any information by submitters that demonstrates that such activities will not result in adverse effects for periods over 31 days.
1160. In response to the submitters concerns regarding the cost of the resource consent process for scientific monitoring activities, I consider that the Council could consider a reduction or exemption of resource consent fees for this type of activity. I do not consider that the costs and time delays in obtaining resource consent, outweigh the need to assess the potential effects of the activity on the coastal marine area.

### **Recommendations**

1161. For these reasons outlined, I recommend that scientific monitoring equipment is continued to be provided for within the MEP as a permitted activity within the Port, Port Landing Area, Marina and Coastal Marine zones, subject to the standards for this activity as notified.
1162. I recommend that the standards that apply to 'Temporary structures or equipment for scientific monitoring purposes' within Coastal Marine Zone are amended within the inclusion of a new standard that reads;

[16.3.9.1 The structure or equipment must not be located within a Category A Ecologically significant sites.](#)

1163. There is no need to amend the standards within the Port, Port Landing Area or Marina Zones as none of the Category A Ecologically significant sites are located within these zones.

## Marine Oil Spill clean-up activity

### *Submissions*

1164. Submissions<sup>277</sup> were received from Aquaculture NZ, Marine Farming Association and Sanford Limited in relation to Rules 13.3.21, 14.3.1, 15.1.29 and 16.1.18 that provide for the clean-up of Marine Oil Spill as a permitted activity and the associated release of oil dispersants, within all zones within the coastal marine area.

1165. The activity is subject to permitted activity standards that oil spill disbursements must be used by a person described in Section 476 of the Maritime Transport Act.

1166. The relief sought by the submitters is that oil spill disbursements should be able to be administered by trained staff where authorised by the Harbour Master. They request that standard 13.3.21 is amended to read "Oil spill dispersants must be used by a person described by Section 467 of the Maritime Transport Act 1994 or a person authorised by the Harbour Master."

### Assessment and Recommendation

1167. Given my limited knowledge of the clean up of oil spill disbursements, I sought information on this matter from the Councils Harbormaster Mr Luke Grogan.

1168. Mr Grogan stated in communication<sup>278</sup>, that he did not consider that the MEP should seek to extend the provisions of Section 467 of the Maritime Transport Act (MTA) to any other person authorised by the Harbormaster as these person may not be trained in disbursement use.

1169. He noted that the HarbourMaster is not always the Regional On Scene Commander (ROSC) as the delegation to ROSC requires completion of a specific training programme delivered by Maritime New Zealand<sup>279</sup>.

1170. S476 of the Maritime Transport Act 1994, outlines the provisions of the RMA, namely Section 9,12-15C that do not apply; to anything done by the or on behalf of an on-scene commander. As the scope of powers under this section of the MTA is significant, it is not considered appropriate for the MEP to extend these powers further.

1171. For these reasons, I recommend that the submissions from Aquaculture, Marine Farming Association and Sanford Limited are rejected.

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<sup>277</sup> Aquaculture NZ (401.192, 209, 220), Marine Farming Association (426.200, 212, 220) and Sanford Limited (1140.060, 061, 062)

<sup>278</sup> Email communication with Mr Luke Grogan, MDC Harbourmaster, 18th February 2018

<sup>279</sup> <https://www.maritimenz.govt.nz/public/environment/responding-to-spills/dispersants.asp>



## **Dredging to maintain water depth levels necessary for ship berthage and manoeuvring**

### ***Submissions***

1172. Rules 13.3.13 and 15.1.23 provide for the dredging and associated disturbance to the foreshore and seabed, to maintain water depth levels necessary for ship berthage and manoeuvring, within the Port and Marina Zones of the MEP.
1173. PMNZ (433.148) submit that it is unclear why there is no rule to provide for dredging within the Port Landing Zone and that this should be provided for as a permitted activity subject to some standards contained within their submission.

### ***Assessment***

1174. The MEP rules provide for dredging within the confines of the Port and Marina Zones subject to compliance within the standards contained within the zones.
1175. It is noted the zonal boundaries of Port Zones of Picton, Shakespere Bay, Havelock and the Marina Zone of Waikawa, extend beyond the physical infrastructure of these sites and include parts of the coastal marine area. In particular the Port Zone of Havelock extends well out into the coastal marine area. This is because this area is identified as the main navigation channel and the zoning is provided in recognition of the need for the Port of Havelock to undertake dredging within this area to maintain the navigation channel to allow the port to operate effectively and efficiently.
1176. I have not been provided any information within the submission of PMNZ, or within submissions of Aquaculture NZ or Marine Farming Association who wish to have the Port Landing areas at Oyster Bay and Elaine Bay rezoned to Port, that indicates that there is a need for dredging within the Port Landing Area Zone, or the extent of dredging that would need to be undertaken within these zones.
1177. Given the more sensitive environments that the Port Landing Areas are located within, it is considered that in the absence of information, that any required dredging should be first assessed through the resource consenting process as a Discretionary Activity.
1178. For this reason recommend that the submission of PMNZ to provide for dredging as a permitted activity within the Port Landing Zone is rejected.

## **Maintenance and Repair of Existing Structures**

### ***Submissions***

1179. Federated Farmers (425.711) request that a new permitted activity rule is included within the Coastal Marine Zone of the MEP to allow for the "*maintenance and repair of coastal protection structures*".

1180. There are two types of activities. The first are those that are provided for as a permitted activity and require structures within the coastal marine zone, for example a navigational aid. The second is a structure within the coastal marine zone that is not provided for as a permitted activity for example a jetty.
1181. Federated Farmers raises concern relating to the activity status for the repair and maintenance of existing structures. The MEP as notified provide for repair and maintenance of structures that are necessary for a permitted activity under Rule 16.2.2, but do not provide for repair and maintenance of structures that are not associated with a permitted activity.
1182. If a structure, for example a jetty, has been lawfully established (i.e. by way of a resource consent, a permitted activity or a certificate establishing existing use rights) then it would seem to be onerous for this existing activity to require resource consent as a discretionary activity for repairs and maintenance. I therefore recommend that repairs and maintenance to existing structures is provided for as a permitted activity in the MEP.

**Recommendation**

1183. To aid interpretation of the Rules, I recommend that an additional permitted activity is provided within the Coastal Marine Zone Rule 16.1 to provide for;

[16.1.X Repair and maintenance of existing lawfully established structures](#)<sup>280</sup>

1184. I also recommend that a new permitted activity standard is included within 16.3 to control the permitted activity;

[16.3.20 Repair and maintenance of an existing lawfully established building or structure](#)

[16.3.20.1 There must be no increase in the height, size or scale of the building or structure.](#)<sup>281</sup>

## Coastal Restoration Activities

### Submissions

1185. NIWA Nelson (236.001) seek the inclusion of a permitted activity allowing the deposition of live and dead marine organisms (eg mussels or mussel shell) for coastal restoration activities. They request a new permitted activity, subject to standards that include designation of appropriate areas, not within ecologically significant marine sites, notification to the harbourmaster, and subject to biosecurity approval.
1186. Aquaculture New Zealand (401.225) and Marine Farmers Association (426.225) seek a new permitted activity to provide for 'Restoration of shellfish reefs in the Marlborough sounds and associated activities in appropriate areas'. They also request that consequential changes are

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<sup>280</sup> Federated Farmers 725.711

<sup>281</sup> Federated Farmers 725.711

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made to Permitted Activity Standards in Rule 16.2 to allow restoration to be achieved through techniques including deposition of natural fibre substrate, deposition of shell waste or mooring blocks on the seabed, and undertaking 'other activities' to kick start reef development.

### ***Assessment***

1187. While I appreciate the intention of the submitters, I consider that the standards that the submitters seek to impose on a permitted activity of this nature, indicate that there is the potential for this activity to cause adverse effects. The nature of these proposed standards are also not clearly measurable or quantifiable.

1188. Given the 'trial' nature of the proposed activities, and the potential for adverse effects on seabed from disturbance and deposition and biosecurity, I do not consider the activity is appropriate as a permitted activity. The activity is such that the nature of the activity (ie scale, location) will vary on a case by case basis, and the potential effects of such an activity will require assessment.

### ***Recommendation***

1189. I therefore consider that the activity is more appropriately considered through the Discretionary activity resource consent process would currently apply in the notified MSRMP. I recommend that the submissions of NIWA Nelson (236.001) rejected.

# Matter 12 – Discharge of sewage from land based activities into coastal waters

1190. This section provides an assessment of submissions in relation to the policies and rules that prohibit the discharge of human sewage from land based activities into coastal waters, with the exception of regionally significant infrastructure. An assessment has been undertaken of the submissions on the following provisions:

- Policy 15.1.19
- Rule 16.7.4

## **Submissions**

1191. Marlborough District Council (95.156, 157) request amendment to Policy 15.1.19 and Rule 16.7.4 to clarify the intended application of the policy and rules, and remove the potential for confusion with Policy 15.1.20 and Rules 16.7.2. and 16.7.3, that also apply to discharges of sewerage to coastal water. Marlborough District Council submit to amend the provisions so it is clear that these provisions only relate the 'Discharge of treated or untreated sewage from land based activities into the coastal marine area, except for the discharge of sewerage from regionally significant infrastructure.

1192. The submission of Marlborough District Council has the effect of addressing 5 submissions<sup>282</sup> where confusion regarding the application of the policy was raised by submitters.

1193. Eight submissions supported the policy and rule as notified<sup>283</sup>.

1194. Seven submissions<sup>284</sup> opposed the policy and rule on the basis that that an exemption is applied to regionally significant infrastructure. Submitters consider that it is hypocritical of the Council to exempt themselves from the application of the Policy. Submitters are unsure as to why Council operated schemes should be exempt from complying with this policy, when all other resource users must comply. The submitters seek that the Policy 15.19.1 and Rule 16.7.4 are amended so that it is equitable for all concerned.

1195. DOC (479.138) supports Policy 15.1.19 but submits that the policy is amended to require improvements in the discharge from regionally significant infrastructure.

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<sup>282</sup> Mark Altoft (127.002), Yachting New Zealand (503.019, 0006), Marlborough Berth and Mooring Association (960.019), Waikawa Boating Club (1233.015), Pelorus Boating Club (1246.013)

<sup>283</sup> Aquaculture NZ (401.239), Eric Jorgensen (404.052), Marine Farming Association (426.235), DoC (479.244), Queen Charlotte Residents Association (504.095), Te Runanga o Kaikoura and Te Runanga o Ngai Tahu (1189.112), Forest and Bird (496.057), KiwiRail (873.066)

<sup>284</sup> Michael and Kirsten Gerard (424.126, 188) Federated Farmers (425.296), Marlborough Berth and Mooring Association (960.013), Marlborough Chamber of Commerce (961.060), Te Atiawa o Te Waka-a-Maui (1186.088), Waikawa Boating Club (1233.008), Pelorus Boating Club (1246.008).

**Assessment**

1196. The majority of submission received in relation to Policy 15.1.19 and Rule 16.7.4 opposed the exemption provided to regionally significant infrastructure.
1197. As outlined within the s32 report<sup>285</sup> the exemption made to regionally significant infrastructure is recognition of the fact that discharges from Council-operated reticulated community sewerage systems in the towns of Havelock (into Kaituna Stream, below the coastal marine area boundary) and Picton (into Picton Harbour) are made into the coastal environment.
1198. The s32 report states that these systems act to maintain public health standards in the towns of Picton and Havelock and therefore require exemption from the Policy.
1199. Havelock Town is currently going through a resource consent application process for consent for the discharge of treated wastewater into the Kaituna River for a period of 5 years (Existing Resource Consent U070013, and Resource Consent Application U170942). This application was publically notified on the 15<sup>th</sup> January 2018.
1200. Marlborough District Council obtained resource consent (Resource Consent U100802) to discharge treated municipal effluent from the Picton Sewerage Treatment Plan to Picton Harbour in June 2011, and this consent and expires 1 June 2046.
1201. Sections 30 and 31 of the RMA set out a range of statutory functions for the Council that enable it to establish management frameworks in response to the identified issues in order to achieve the purpose of the Act. This includes Section 30(1)(d)(ii) that identifies a functions of the Council, in respect of any costal marine area in the region, to control (iv) discharges of contaminates into, or onto land air or water and discharges of water into water.
1202. The NZCPS is a national policy statement under the Act. The purpose of the NZCPS is to state policies to achieve the purpose of the Act in relation the Coastal Environment.
1203. Of relevance to the discharge of sewage is Policy 23(2) of the NZCPS that states,
- “In managing the discharge of human sewage, do not allow;
- (a) the discharge of sewage directly to water in the coastal environment without treatment, and
- (b) the discharge of treated human sewerage to water in the coastal environment, unless:
- (i) there has been adequate consideration of alternative methods, sites and routes for undertaking the discharge; and
- (ii) informed by an understanding of tangata whenua values and the effects on them”.
1204. In addition, Policy 23(3) requires that objectives, polices and rules in plans which provide for discharge of treated human sewage into water of the coastal environment must have been subject to early and meaningful consultation with tangata whenua.

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<sup>285</sup> S32 Report: Chapter 15 – Water Quality pg 31

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1205. It is clear that the Council can, within its functions, control the discharge of contaminants (in this case treated human sewerage) into coastal waters. It is also clear that the Council, in accordance with the NZCPS can allow for the discharge of treated human sewage into the coastal environment, provided that there has been consideration of alternative methods and an informed understanding of tangata whenua values.
1206. As outlined within the explanation to Policy 15.1.19 the remainder of the policies within the MEP relating to management of point source discharges to water in Chapter 15 (namely Policies 15.1.8 – 15.1.17) will apply to the discharges from this regionally significant infrastructure. This means that the Council will have to consider alternative receiving environments when new resource consents are sought for these existing discharges, and assess if discharge to coastal water is the best practicable option<sup>286</sup>. The effects of the discharge will still be considered in accordance with Policy 15.1.12.
1207. The objective and policies contained within Chapter 3 – Marlborough's Tangata Whenua Iwi of the MEP, in particular Policy 3.1.2 requires that an applicant (in this case Marlborough District Council), are expected to consult early in the development of a proposal so that the cultural values of Marlborough's tangata whenua iwi can be taken into account. The objectives of Chapter 3, seek that the natural and physical resources are managed in a manner that takes into account the values of Marlborough's tangata whenua iwi and respects and accommodates tikanga Māori (Objective 3.2). Furthermore, Objective 3.3 requires that the cultural and traditional relationship of Marlborough's tangata whenua iwi, their ancestral lands, water, air, coastal environment and other sites and taonga are recognised and provided for. Policy 15.1.11 (a) also requires consideration of the potential adverse effects of the discharge to water, on the spiritual and cultural values of Marlborough's tangata whenue iwi.
1208. I consider that the requirements for consideration as outlined within the NZCPS, namely alternative receiving environments, and an understanding of tangta whenua values are required to be considered through the MEP, as outlined above, and that these policies gives effect to the NZCPS. These matters will be considered by an assessment of the activity (namely the regionally significant infrastructure) against the policies in the MEP as part of the resource consenting process.
1209. I consider that the Council, through the policies and rules, and subsequent resource consent assessment process that applies to any consent application for this regionally significant infrastructure, will give be able to give effect to the NZCPS and the RMA.
1210. I acknowledge and can understand the position of submitters, that the exemption of this rule to regionally significant infrastructure appears to allow the Council to contradict the intention of the policies to eliminate the discharge of sewerage from the coastal environment.
1211. It appears to be to be a 'miss' by the Council not to provide for an 'aspirational target' of achieving the removal of point source discharge of treated sewerage from regionally

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<sup>286</sup> Policy 15.1.8, Policy 15.1.10. 15.1.11

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significance infrastructure, or at the least an indication of an intention to do so. The exemption within Policy 15.1.19, may give an impression to plan users that the Council plans to 'maintain status quo' in respect of discharges from this regionally significant infrastructure', a position that while in line with giving effect to the higher order documents, does not reflect the overall community desire.

1212. I appreciate that the Council would need to undergo significant research, planning and expense in order to pursue this outcome, however I consider that this is a matter that should be 'on the agenda', given the submissions received in response to this policy direction by the Council.
1213. I consider that the submission by DOC is admirable in its intentions, however at that this point would be difficult to manage. The MEP through the polices and rules of the plan relating to point source discharge set up the framework that outlines the 'waterbody classification standards' for coastal water that the discharge must comply with. For coastal waters these include temperature, dissolved oxygen and suitability for human fish consumption as outlined within Volume 3 - Appendix 5 of the MEP. Provided that the discharge meets these standards then it is considered within the limits suitable to achieve the purpose of the Act.
1214. To achieve improvement on these discharge limits it would be more effective to be managed through resource consent conditions that could require improvement over time as part of the consent process. This is something the Council could actively seek to achieve by committing to consent conditions to achieve discharge above the quality of identified limits within the plan.
1215. Rather than improvements to limits, it is clear from the consultation through the MEP and submissions received on the notified provisions, that it is culturally inappropriate (both to pakeha and Māori) that human sewerage (treated or otherwise) is discharged into the coastal environment. I therefore consider it would be more appropriate for the Council to set a clear direction through the plan of its intention to eliminate the discharge of sewerage into the coastal marine area, in line within the overwhelming feeling on the community.
1216. The Council could consider setting within the MEP an aspirational target to eliminate the discharge of human sewage from the coastal environment. This does not need to be achieved within the life of the MEP (being 10 years) but could be set at 2046, to signal that the consent for the Picton Sewerage Treatment Plan will be the last consent issued.
1217. However, as outlined above, while I appreciate the position raised by submitters, and consider that there is room for the Council to clearly demonstrate a way forward in line with the concerns of the submitters, the policy and rules as notified do enable the Council to give to the NZCPS and therefore the RMA. The policy and rules as notified is therefore effective in line with the test under s32 of the Act.
1218. The investment within the Council sewerage systems, and the benefits to the health and safety of users of the towns of Havelock and Picton must be considered in a consideration of efficiency. As outlined above the rules and polices can achieve the purpose of the Act, and at this time are the most efficient method in which to do so.

***Recommendation***

1219. I consider that the Policy 15.1.19 and Rule 16.7.4 remain as notified, and that the submissions in opposition to these provisions are rejected.



# Matter 13 – Discharge of Sewerage from ships into Coastal Waters

1220. This section provides an assessment of submissions in relation to the policies and rules that work towards the elimination of the discharge of human sewage from ships into coastal waters within the Marlborough sounds. An assessment has been undertaken of the submissions on the following provisions:

- Policy 15.1.20
- Rule 13.6.4 – 13.6.6
- Rule 14.5.4 – 14.5.6
- Rule 15.7.4 – 15.7.6
- Rule 16.7.2 – 16.7.3
- Method 15.M.10 – 15.M.12

## **MEP Management Framework**

1221. Policy 15.1.20 is introduced within the MEP to control the discharge of sewage from ships in the Marlborough Sounds (with the exception of Grade A and B treated sewage).

1222. Policy 15.1.20 is implemented by the Rules in Volume 2 for all Zones within the Marlborough Sounds that are contained wholly or partly within the coastal marine area. These include the Port Zone, Port Landing Area Zone, Marina Zone and the Coastal Marine Zone.

1223. Within each zone (with the exception of the Coastal Marine Zone) are three rules that prohibit the discharge of sewage from ships. These rules state that the following is a Prohibited Activity with the Zone;

- From June 2022, the discharge of human sewage, except Grade A or B treated sewerage, from a ship within 1000m of MHWS. (Rule 13.6.4, 14.5.4, 15.7.4, 16.7.2)
- From June 2022, the discharge of human sewage, except Grade A or B treated sewerage, from a ship within 1000m of a marine farm. (Rule 13.6.5, 14.5.5, 15.7.5, 16.7.3)
- Discharge of untreated human sewage into the coastal marine area. (13.6.6, 14.5.6, 15.7.6)

1224. Within the Coastal Marine Zone Rules 16.7.2 and 16.7.3 apply.

1225. Within the Port, Port Landing Area Zone and Marina Zone, the discharge of untreated sewerage, from any activity (both land based activities and ships) within these zones is prohibited with immediate effect (in line with Rules 13.6.6, 14.5.6, 15.7.6). Given the location of the Port, Port Landing Area, and Marina Zones, all within the coastal marine area, and within 1000m of MHWS, the effect of Rules 13.6.6, 14.5.6, 15.7.6, will be to override the other rules,

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and prohibit ships from discharging untreated sewerage within coastal waters within these zones with immediate effect (as outlined within the submission of Yachting NZ<sup>287</sup>)

### **Submissions**

1226. The Council received over 250 submissions relating the policy and rules framework for the management of sewerage discharge from ships.
1227. The submissions predominantly opposed the proposed policy and rules framework. Of those around 75 of the submissions were in a pro-form submission, as members from the Waikawa Boating Club and the Marlborough Berth and Mooring Association
1228. Only 16 of the submissions received, supported the policy and rules as notified.
1229. Te Runanga o Kaikoura and Te Runanga o Ngai Tahu (1189.112) submitted in support of the policy and rules as notified on the basis that the discharge of treated or untreated human sewage into the coastal marine area is offensive to Ngai Tahu, and that prohibiting this activity is supported. Ngai Tahu also wishes to signal through their submission that over time, they would like to see all discharges of human sewage ceased.
1230. The matters raised in submissions in objection to Policy 15.1.20 and Rules 16.7.2 and 16.7.3 were primarily identical, and from the same submitters (ie submitters made identical submissions for both rules).
1231. There were a smaller number of submissions on the rules relating to the discharge of sewerage from ships within the Port, Port Landing Area and Marina Zones. Submission in response to Rules 13.6.4, 14.5.4, 15.7.4, 13.6.5, 14.5.5, and 15.7.5 raised identical submission points to those raised within submissions on Rules 16.7.2 and 16.7.3 applying the Coastal Marine Zone.
1232. For these reasons the submissions have been grouped according to the topic matters raised within the submission. An assessment will be then made on each of the topic matters.
1233. The submitters in objection to the proposal raised the following reasons for objection;
- Lack of evidence from the Council to justify the provisions;
  - Failure to acknowledge the provisions of the Resource Management (Marine Pollution) Regulations 1998;
  - Implications of provisions on locations for discharge and health and safety of boaties;
  - Provision of pump out facilities;
  - Impact of the provisions on boat owners / operators;
  - Absence of consultation;
  - Alternative non-regulatory methods;

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<sup>287</sup> Yachting NZ 503.010, 013, 016.

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- Compliance Monitoring.

1234. This section of the report will summarise the nature of submissions received in relation to each of the topic matters listed above, and then provide an assessment of the matter raised.

### Evidence

1235. One of the primary concerns raised by of submitters was the absence of evidence to support the proposed changes to the MEP pertaining to the discharge of sewerage from ships. A summary of the submission points in relation to this matter are outlined below;

- The proposed policy and rules replace existing regulatory controls on sewerage discharge from vessels contained within the Resource Management (Marine Pollution) Regulations 1998. Submitters are concerned that there has been no research or evidence presented by the Council to support the proposed rule change.
- There is no evidence contained within the s32 or any other document that has been presented by the Council that there are adverse effects on the environment as a result of the discharge of sewage from ships.
- No information has been presented by the Council, that provides analysis of the effects of sewage discharge from vessels in the unique Marlborough sounds environment. The sounds given its particular its characteristics that include the depth of water in the Marlborough Sounds, mixing zones, dilution factors, or any other factors that may influence sewage discharges at greater distances than 500m from the shore<sup>288</sup>.
- Discharge over the current widely accepted area is quickly diluted resulting in little pollution – the same logic used in part to justify additional Salmon Farms in the Marlborough Sounds.
- In the regulations, discharge may occur at depth of 5m. The MEP does not consider the water depths or tidal flows of the Marlborough Sounds where depths of 5m are primary very close to shore, and more likely depths of 20-30m prevail. This volume of water is a key component to speed of dilution.
- Submitters stated that if marine pollution is later proven to be an issue, then this could be resolved by the encouragement over time and obligation for boat owners to install holding tanks and filters on boats, and the provision of pump facilities by the Council at regular distances<sup>289</sup>.
- Submissions request to amend the rule as proposed, to increase the current depth restriction from 5m within the Regulations to 20m, as this would mean that sewerage is discharged within areas of higher water volume and greater water flow<sup>290</sup>.

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<sup>288</sup> Pelorus Boating Club Incorporated 11246.011,10

<sup>289</sup> Waikawa Boating Club 580.001, 10

<sup>290</sup> Yachting New Zealand Incorporated

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- The use of the sounds by large numbers of recreational boats is primary within the summer months around Christmas/new year and Easter, and therefore there are limited times in which sewerage discharge from ships is likely to be an issue.
- No other Coastal Marine area in New Zealand has a regulation of 1000m and this includes the Hauraki Gulf that has more recreational boats and is considerably shallower<sup>291</sup>.
- Most boat owners of day trips use toilet facilities before leaving, rather than using marine toilets and therefore the effects of sewerage from boats is minor<sup>292</sup>.
- That in the absence of better information the current regulations are appropriate<sup>293</sup>.

### Relationship with the Resource Management (Marine Pollution) Regulations 1998

1236. A number of submitters raised questions regarding the relationship between the proposed rules and the Resource Management (Marine Pollution) Regulations 1998. The submission points in relation to this matter are outlined below;

- The proposed policy and rules replace existing regulatory controls on sewerage discharge from vessels contained within the Resource Management (Marine Pollution) Regulations 1998. The 1000m distance from MHWS appears to be arbitrary and at odds within National Regulations.
- That the Auckland Regional Council proposed 5 mile's offshore discharge. Yachting NZ submitted that this was unsafe and impractical and this now remains at 500m.
- A permitted activity rule should be provided for allowing for discharge of untreated sewerage from ship subject to performance standards relying to distance and depth in line with the Regulations<sup>294</sup>.
- The Regulations are made under s360 of the RMA, and legally are an exception to s15 of the RMA, and the regulations are not subject to the policy provisions of the NZCPS<sup>295</sup>.

### Locations for discharge

1237. Submitters raised concern over the effect that the MEP framework would have on the locations in which the discharge of sewerage within the Marlborough Sounds would be permitted. A summary of the submission points in relation to this matter are outlined below;

- The rules will place much larger limitations on the places where sewerage can be pumped out within the Sounds and would exclude almost all the inner sounds and Tory Channel.

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<sup>291</sup> Andrew Simmonds 536.001

<sup>292</sup> Waikawa Boating Club 580.001

<sup>293</sup> Marlborough Berth and Mooring Association 960.017, 15, 18

<sup>294</sup> Yachting New Zealand Incorporated 503.017, 013, 011

<sup>295</sup> Yachting New Zealand Incorporated 503.00, 008

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- From Blumine Island inward the only areas available to discharge sewage are very small, and that locating them will require a precise navigational exercise. These locations are mid channel which puts them in conflict with large commercial vessels.
- Tory Channel would be outside the area where sewerage can be discharged. This would require a vessel would have to go out into Cook Strait to discharge sewage, for smaller vessels this may not be prudent or safe<sup>296</sup>.
- Locations that meet the requirements, given they will be limited within the Sounds, are likely to become more heavily polluted. Discharge as current, is over a much wider area and diluted quickly.
- The rules will result in excessive disposal in a small number of areas, which are areas more heavily used and are within ferries and cruise ships transit routes creating a navigational hazard<sup>297</sup>.
- A plan<sup>298</sup> shows the extent of the 1000m shoreline prohibition for the Marlborough Sounds, it includes all of Tory Channel and almost all of the inner Queen Charlotte Sound. For example, a vessel moored or anchored at Whekenui Bay in Tory Channel would have to travel 16.5km to the nearest lawful discharge point, or venture out into Cook Strait which is weather and tide dependent. For a typical cruising yacht 16.5km each way is about a 3 hour return trip. Similar constraints apply in the inner Pelorus Sound and Kenepuru Sound. All of Port Hardy and Greville harbour would be discharge prohibited zones.

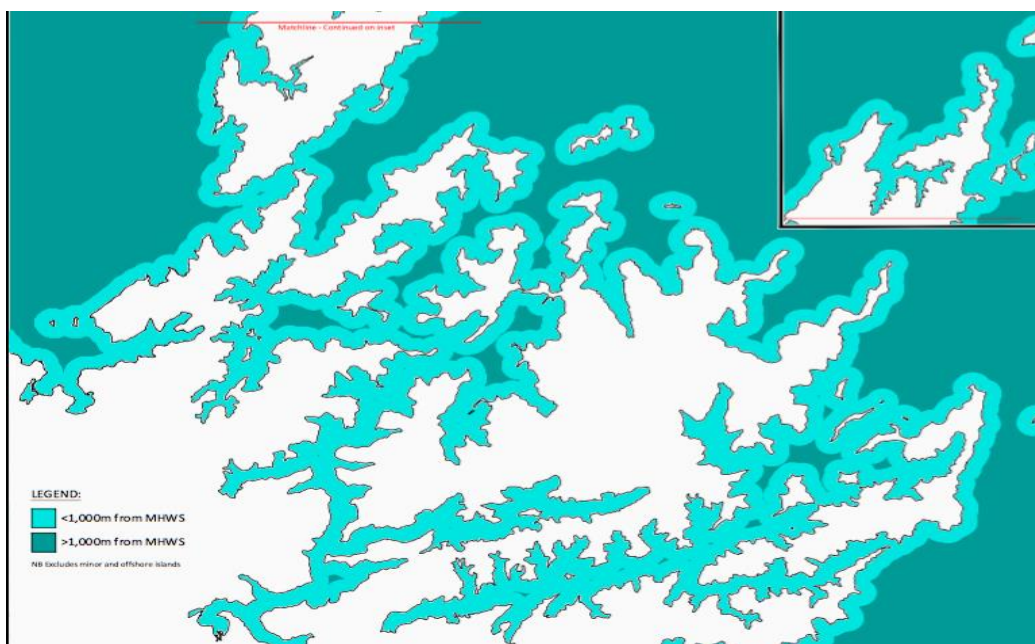


Figure 20: Map provided by Jonathan Duffy (97.002) showing extent of proposed policy and rules (areas where discharge is permitted are shown in dark green)

<sup>296</sup> Roland McGregor Post 1071.001

<sup>297</sup> Waikawa Boating Club 580.001

<sup>298</sup> Jonathan Duffy 97.002

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- Weather conditions in sounds may restrict boats in being able to get 1000m from land to discharge, or to access discharge facilities and may be dangerous (ie create a need to go out in unsuitable conditions in order to discharge).
- Yachts because of slow speeds (typically 5-12 knots) would need to embark in some cases on a 4 hour trip to reach an approved discharge facility or an appropriate on water area<sup>299</sup>.

### Pump out Facilities

1238. Submitters raised concern over the availability and practicality of the use of pump-out facilities.

A summary of the submission points in relation to this matter are outlined below;

- There is large distance between locations where discharge would be allowed, and from Picton, Waiawa or Havelock where pump out facilities are provided. This will require boat users to travel extended voyages where no pump out facility is available.
- Pump out facilities within the Marlborough Sounds are limited (only 3) and those that do exist require on going service and maintenance, and the lack of this results in frequent failures. There is not a sufficient amount of pump stations to deal with the number of boats within the Marlborough Sounds, and within peak times of year there would be queues and chaos in accessing such pumping stations.
- The provision of pump stations would result in large costs to the community and rate payers.
- Implementation of this rule would require the provision of pump-out stations throughout the Sounds so that holding tanks can be emptied. Most lodges in the Sounds are already experiencing considerable problems in disposing of treated sewage due to insufficient or unsuitable land for disposal<sup>300</sup>.
- In the absence of good data on "pump-out loading" throughout the Sounds, and of the dilution capabilities and flushing capabilities of the tidal currents throughout the Sounds, it's hard to imagine that the capital and running costs of a network of pump-out stations can be justified<sup>301</sup>.

### Impact on Boat Owners/Users

1239. Submitters raised concern over the impact of the provisions on boat owners and operators. A summary of the submission points in relation to this matter are outlined below;

- Some small boats have limited sewerage storage capacity, and is prohibitively expensive for most pleasure boats to install Grade B treatment facilities (let alone Grade A).

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<sup>299</sup> Elias I Wilson (695.001)

<sup>300</sup> Waikawa Boating Club 1233.013

<sup>301</sup> David Edward Johnstone 653.001

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- Mandatory use of macerators would be helpful in reducing any visual pollution from sewerage discharge.
- That such a limit could be restricted to larger ships over 50 tonnes to prevent large discharge in the Marlborough Sounds<sup>302</sup>, or redefine the definition of ship and introduced a tiered system for large commercial ships, smaller commercial operators and recreational craft<sup>303</sup>.
- Not all holding tanks are installed with a shore pump out option and this would result in additional costs to vessel owners<sup>304</sup>.
- It is not practical to expect small craft owners, trailer boats, older boats, kayaks, jet ski users to have on-board toilet facilities<sup>305</sup>.
- The rule will encourage people at anchor to go ashore and pollute on land giving rise to similar problems that occur in relation to freedom campers including pollution of fresh water streams<sup>306</sup>.
- A rule should require that all boats have holding tanks, as opposed to placing limits on locations where sewerage can be discharged<sup>307</sup>.
- The changes would severely limit the use of the sounds as a recreational area, which is one of the major attractions for Marlborough<sup>308</sup>.
- The rule will affect the ability of some boat users (those retired or incapacitated), from being able to comply with the rules, and concern that they will not be able to manage the pump out facilities.

### Consultation

1240. Many submitters were concerned that no consultation on the proposed rule was undertaken with local boat clubs prior to the notification of the MEP.<sup>309</sup>

### Non-Regulatory Methods

1241. One submission proposed to leave the discharge restrictions as outlined within the Regulations, but develop a map of the area where Council advises boat owner that they should discharge sewerage. That map is suggested to show areas that are the deep main channels of Queen Charlotte Sound. The map could be used as a non-regulatory method, providing information to boat users, and be displayed in Marinas and Boat clubs, websites, and cruising guide<sup>310</sup>.

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<sup>302</sup> Mark Altoft 127.001

<sup>303</sup> David Colsell 248.001

<sup>304</sup> Elias I Wilson (695.001)

<sup>305</sup> Robyn Anne Barclay 1048.001

<sup>306</sup> John Nicolas Burton 789.001,002

<sup>307</sup> Warick Foley 1222.002

<sup>308</sup> Ian Murry and Elizabeth Ann MacDonald 774.001

<sup>309</sup> Waikawa Boating Club and Marlborough Moorings Pro-Foma Submissions.

<sup>310</sup> Peter Broughton 138.001

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### Cultural Values

1242. Submitters in opposition to the policy and rules raised that the inference in Volume 1, which infers cultural disgust by Maori at the discharge of sewerage into the sea is not factually sound.

1243. It is noted however that Te Runanga o Kaikoura and Te Runanga o Ngai Tahu (1189.112) support the rules on the basis that the discharge of treated or untreated human sewage into the coastal marine area is offensive to Ngai Tahu.

### Compliance and Monitoring

1244. Questions raised over how compliance with the Rule would be monitored and enforced by the Council, in particular that;

- Given the difficulty level in compliance, this will lead to non-compliance.
- That the rules will discourages people from owning and using boats and in turn Marlborough's economy will suffer.
- To be effective marine users must be supportive of a change and 'buy into it', and rules change that cannot be demonstrated appropriate and effective is unlikely to be observed and difficult and expensive to enforce<sup>311</sup>.

### Submissions in support

1245. Approximately 16 submissions were received in support of the proposed policy and rules framework as proposed. Submitters did however raise a number of matters that they considered needed to be addressed in line with the implementation of the policy and rules framework; These include;

- That owners of vessels should be put on notice that they have limited time to upgrade their vessel's effluent system i.e. by installing holding tanks. Equally marinas (commercial and recreational) need encouragement/incentives to extend their effluent collection services to cater for the additional demand<sup>312</sup>
- Amendments to the rules are made to remove the restriction on location, but to require that all vessels with the capability to overnight on have wastewater (effluent) systems holding systems installed (and monitored for use) within five years of the plan being operative.
- The workability of the rules depends of the adequate provision of pump stations easily accessible throughout the sounds. Infrastructure and awareness needs to be provided by the Council before June 2022 to encourage compliance with these rules, and

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<sup>311</sup> A G N Anderson 526.001

<sup>312</sup> Sanford Limited (1140.040, 041, 034,035,036, 038)



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acknowledges that concentrated dumping in limited areas as a result of this rule could be problematic<sup>313</sup>.

- That the use of the Marlborough Sounds by boaties, recreational fishers and cruise ships will increase exponentially over the lifetime of the MEP and port efforts to keep human sewage out of the marine environment are supported.
- NIWA hydrodynamic modelling has shown it can take up to 46 days to flush out the inner Queen Charlotte Sound<sup>314</sup>, with submitters referring to the summary of the NIWA report<sup>315</sup>.
- That the prohibited rules should be given immediate effect<sup>316</sup>

1246. Queen Charlotte Residents Association (504.094, 090) support the rule as it is a step toward filling obligations under the International Convention for the Prevention of Pollution from Ships (MARPOL) and will also with upholding water quality and food gathering.

### **Assessment**

#### The regulatory Framework

1247. Prior to the assessment of submission topics matters, I consider it necessary to set the scene and examine the regulatory framework that controls the Council's ability to manage the discharge of sewage from ships within coastal waters.

#### The RMA

1248. Sections 30 and 31 of the RMA set out a range of statutory functions for the Council that enable it to establish management frameworks in response to the identified issues in order to achieve the purpose of the Act. This includes Section 30(1)(d)(ii) that identifies the functions of the Council, in respect of any coastal marine area in the region, to control;

(iv) discharges of contaminants into, or onto land air or water and discharges of water into water, and

(iva) the dumping... of waste or other matter and the dumping of ships....and

(vii) activities in relation to the surface of the water.

1249. S15A of the Act states that no person may, in the coastal marine area, dump any waste or other matter from any ship...unless the dumping is expressly allowed by a resource consent.

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<sup>313</sup> Pinder Family Trust (578.050, 51 and Guardians of the Sounds (752.050, 051), Sea Shepherd New Zealand (1146.050), The Bay of Many Coves Residents and Ratepayers Association (1190.036, 037) and The Marlborough Environment Centre (1193.045, 046)

<sup>314</sup> Pinder Family Trust (578.050, 51 and Guardians of the Sounds (752.050, 051), Sea Shepherd New Zealand (1146.050), The Bay of Many Coves Residents and Ratepayers Association (1190.036, 037) and The Marlborough Environment Centre (1193.045, 046)

<sup>315</sup> <https://www.marlborough.govt.nz/repository/libraries/id:1w1mps0ir17q9sgxanf9/hierarchy/Documents/Environment/Coastal/Hydrodynamic%20Models%20List/PublicsummaryQCSHydrodynamic2014.pdf>

<sup>316</sup> Aquaculture New Zealand (401.199, 201) and Marine Farmers Association (426.204, 213, 233, 234, 20,205), Michael and Kirsten Gerard (424.186, 187)

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1250. S15B(a) of the Act states that no person may discharge a harmful substance from a ship into the water unless the discharge is permitted or controlled by regulations made under the Act, or a rule in an operative or proposed Regional Plan or Coastal Plan or a resource consent.

1251. 'Harmful substance' is defined within s2 of the Act as any substance prescribed in the regulations as a harmful substance.

1252. S360 of the Act allows the Governor-General to make regulations for certain purposes. In relation to the discharge of sewerage from ships, the relevant regulation is the Resource Management (Marine Pollution) Regulations 1998.

### The Resource Management (Marine Pollution) Regulations

1253. S3(c) of the Regulation defines drainage and other wastes from any form of toilet, urinal or toilet scupper on a ship, as a harmful substance for the purposes of the Act.

1254. S11 of the Regulations controls the discharge of sewage in the coastal marine area, with 11(2) stating that no person may discharge sewage into the coastal marine area from a ship unless the discharge occurs;

- (a) more than 500m seaward of MHS,
- (b) more than 500m from a marine farm, and
- (c) in water depths greater than 5m.

1255. S11(3)(a) provides for a rule to be included within a regional coastal plan relating to the discharges under this regulation, only if the rule increases the distances seawards or increases the depth specified in 11(2) for any parts of the region, or increases the distance from a marine farm, for all or any part of the year.

1256. This is what the provisions within the MEP seek to do, by increasing the seaward distance and distance from the marine farm for discharges from 500m to 1000m.

### The NZCPS

1257. The NZCPS is a National Policy Statement under the Act. The purpose of the NZCPS is to state policies to achieve the purpose of the Act in relation the coastal environment.

1258. Of relevance to the discharge of sewage from ships is Policy 23(2)(a) of the NZCPS that states;

*In managing the discharge of human sewage, do not allow for the discharge of sewage directly to water in the coastal environment without treatment.*

1259. There is a contradiction between the NZCPS and the Regulations, as the Regulations provide for the discharge of untreated sewage into the coastal environment (subject to limitations on location) where as the NZCPS states that the discharge of untreated human sewage in the coastal environment should not be allowed regardless of location.

1260. It should be noted however that the Regulations came into effect in 1998, whereas the NZCPS did not have effect until 1994.

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1261. The s32 report<sup>317</sup> states that Policy 15.1.20 gives effect to the NZCPS Policy 23(2), however the Policy will still allow for untreated sewerage to be discharged into the coastal environment (just at a larger distance).

1262. It is noted the on DOC website guidance in relation to Policy 23, entitled "What does Policy 23 mean for dischargers of untreated human sewerage"<sup>318</sup> states that "*Policy 23(2)(a) is strong direction against discharges of untreated human sewage to water in the coastal environment. It signals that very clear justification should underpin any provision for discharge of untreated sewage to water in the coastal environment. However, it is not a rule, and does not mean that resource consent applications that involve discharges of untreated human sewage cannot be approved. Nor does it mean that such discharges must be classified as prohibited activities in regional coastal plans and regional plans*".

1263. In correspondence with DOC, DOC have advised that they are currently reviewing their guidance in relation to the application of the NZCPS and the Regulations. DOC has indicated that any guidance would highlight that<sup>319</sup>;

- For discharges from ships or offshore installations, Councils are only empowered to "increase" the depths or distances from particular sites where discharges of untreated human sewage can occur.
- The Regulations do not affect the Council's obligation under Policy 23(2)(a) of the NZCPS to "not allow" the discharge of untreated human sewage directly into the coastal environment from land-based activities.
- Particular rules may be made to address the discharge of treated sewage from ships or offshore installations, but only as enabled by the Regulations and in accordance with the procedural requirements of Policy 23(2)(b) of the NZCPS.

1264. From the guidance provided by DOC, in order to give effect to the NZCPS, in providing for rules that increase the distance of discharges, consideration must be given to alternative receiving environments and an understanding of tangata whenua values and effects on them, in line within Policy 23(2)(b) of the NZCPS.

### Evidence

1265. As outlined within the s32report<sup>320</sup>, Marlborough's coastal waters, rivers, lakes, wetlands and aquifers contain a diverse range of natural and human use values and are used extensively by the community. The existing water quality in the majority of our waterbodies is sufficient to support these values, but it is important that no degradation of water quality is allowed to occur.

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<sup>317</sup> Water Quality s32 Report, pg 32

<sup>318</sup> <http://www.doc.govt.nz/about-us/science-publications/conservation-publications/marine-and-coastal/new-zealand-coastal-policy-statement/policy-statement-and-guidance/sewage-discharges/>

<sup>319</sup> Per email comms with Chris Rendall, DOC Senior National Advisor RMA, 27<sup>th</sup> February 2018

<sup>320</sup> Water Quality s32 Report, pg 18

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1266. The s32 report<sup>321</sup> also identifies that there are a number of sources of discharge from contaminants into coastal water, and the combination of these threats can occur cumulative adverse effects of freshwater and coastal water quality. In addition, some coastal waters and waterbodies are more susceptible to water quality degradation than others. For example, the enclosed nature of the coastal waters in the Marlborough Sounds renders this environment particularly sensitive to contamination, as dilution and tidal flushing is limited.
1267. I consider the effects of the discharge of untreated sewerage into the coastal waters are well known. As highlighted within the s32 report<sup>322</sup> it is also recognised that that in some locations there is limited movement of water due to the enclosed waters of the Marlborough Sounds. This means that there is a reduced capacity for contaminants to mix with the receiving waters, increasing the risks to human health and to food safety.
1268. As identified on the Maritime NZ website<sup>323</sup>, Maritime Discharge of sewerage can harm the environment and people by contaminating seafood, transmitting diseases to water users and creating conditions unsuitable for marine life. While the effects of sewage discharge from one boat may be minor, the cumulative effects of the whole maritime sector are significant.
1269. There is growing concern from the community, as outlined within the s32 which states that there was 'overwhelming support for a total prohibition on discharges from vessels in the Marlborough Sounds to maintain coastal water quality<sup>324</sup>.
1270. The policies and rule framework recognise the strong community preference expressed through consultation to avoid such discharges and acknowledge iwi cultural/spiritual values with respect to human sewage discharges to water<sup>325</sup>. This is supported by the submission of Te Runanga o Kaikoura and Te Runanga o Ngai Tahu (1189.112) who support the rules on the basis that the discharge of treated or untreated human sewage into the coastal marine area is offensive to Ngai Tahu.
1271. While I acknowledge that the Council has not provided any specific evidence relating to the proposed environmental effects in the Marlborough Sounds specific the discharge of sewage from ships, I am satisfied that there is sufficient general knowledge of the effects of sewerage on water quality, to provide justification for the Council wishing to control the discharge of sewage into coastal waters. In addition, the NZCPS provides direction to not allow for the discharge of untreated sewage within the coastal environment, without the consideration of alternative receiving environments, and an understanding of tangata whenua values.
1272. The Councils intention with this suite of policies and rules is clear.
1273. A number of submission have referenced to the unique sounds environment, and its ability, with depths and tidal flows to be capable of flushing out the sewage discharged from boats, and therefore having limited effect on water pollution within the sounds.

<sup>321</sup> s32 Report: Chapter 15 Resource Quality – Water, pg 5

<sup>322</sup> s32 Report: Chapter 15 Resource Quality – Water, pg 31

<sup>323</sup> <https://www.maritimenz.govt.nz/commercial/environment/sewage-discharge.asp>

<sup>324</sup> s32 Report: Chapter 15 Resource Quality – Water Pg16

<sup>325</sup> s32 Report: Chapter 15 Resource Quality – Water Pg31

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1274. I am referred from submissions in support of the provisions as notified, to a report prepared for the Council by NIWA 'A biophysical model for the Marlborough Sounds, Part 1 Queen Charlotte and Tory Channel, September 2014'<sup>326</sup>. The purpose of this report and modelling was to describe the effects of existing and proposed mussel and fish farms on water quality. Although the report provides no data directly in relation to discharge of sewage from ships, the report provides interesting information on 'flushing times' within Tory Channel and Queen Charlotte Sound. Flushing time is an indication of how long it takes for water in a region to be replaced. The flushing times provided in the report indicate that within Inner Queen Charlotte Sound a flushing time of 35-46 days and for Tory Channel 10.9 days. The report indicates that flushing times vary seasonally, with flushing times longer in summer<sup>327</sup>.
1275. The report provides some evidence, although acknowledged not directly related to this issue, that there is significant variation in tidal flows and flushing times throughout the Marlborough Sounds, and while in some areas (such as Tory Channel) this can be relatively quick (although would still be within the Sounds for 11 days), other areas such as the inner Queen Charlotte sound, and outlying bays have considerable longer flushing time. This indicates that the discharge of contaminants (in this case human sewage) from boats is very dependent on the location that the discharge is made.
1276. It is noted that flushing times are higher in summer, which is the time at which, as indicated by submitters, is the time of the year when most recreational boats are used within the Marlborough Sounds. The effect of this is, that at the time of the year in which most sewage will be discharged from ships, the time at which it takes for this water to leave the sounds (or be replaced) is at its highest.
1277. Submitters have also raised concern that the Marlborough Sounds would be the only area within New Zealand where restrictions of the locations available to discharge sewage are more stringent than the Regulations provided for under the Act.
1278. I do not consider that this is a suitable reason to reject the proposed policy and rule framework. The Marlborough Sounds is a very unique environment, with the Sounds being Marlborough's 'Jewel in the crown' and is unique in New Zealand. I consider that this could on the other hand, be a way to recognise the unique nature of the sounds, its special characteristics, and quality, and provide for a framework that identifies that the discharge of human sewage within this unique and sensitive environment is not acceptable.
1279. The policy, rules and s32 outlines that a lead in phase has been provided for this policy and the rules, in order to provide a period in which the public is made aware of the proposed controls as well as providing appropriate facilities for dealing with human waste once the policies are implemented<sup>328</sup>.

<sup>326</sup><https://www.marlborough.govt.nz/repository/libraries/id:1w1mps0ir17q9sgxanf9/hierarchy/Documents/Environment/Coastal/Hydrodynamic%20Models%20List/PublicsummaryQCSHydrodynamic2014.pdf>

<sup>327</sup> 'A biophysical model for the Marlborough Sounds, Part 1 Queen Charlotte and Tory Channel.' NIWA. September 2014 pg 8

<sup>328</sup> S32 Chapter 15 – Water Quality Water Quality Pg31

Regulations

1280. A majority of submitters raised concern that the discharge of sewerage from ships to coastal waters is already controlled by the Regulations, and the increase of distance for discharge from 500m to 1000m is arbitrary.
1281. As outlined above, in paragraph 1250 the regulations provide for the ability for Council to increase those regional rules, the distance from land and marine farms for discharge. The Regulations do not allow for the distance to be decreased.
1282. The s32 report, clearly identifies that the reasons for the proposed rules is because the Marlborough Sounds has been identified as one of the District's most significant natural resources and as a predominantly coastal environment. The quality of coastal waters is paramount to their ongoing use and enjoyment by the community and visitors. Some parts of the Marlborough Sounds also support marine farming, an industry that relies upon good coastal water quality. The policies recognise the strong community preference expressed through consultation to avoid such discharges and acknowledge iwi cultural/spiritual values with respect to human sewage discharges to water<sup>329</sup>
1283. The Maritime NZ website outlines the Regulations, then goes on to say "Where regional councils determine more protection is needed, they may increase the area where Grade B and untreated sewage discharges are prohibited. Boat operators should become familiar with local rules in regional coastal plans".
1284. As discussed in paragraph 1250 the Council can within its functions under the Act and the Regulations increase the distance from MHWS and Marine Farms for the discharge of sewerage from ships. The section 32 report<sup>330</sup>, is clear on the reasons why the Council has chosen adopt this management framework.

Locations for discharge limited

1285. The majority of submitters expressed concern that the provisions will result in a very limited area of the sounds where the discharge of sewage from boats would be permitted, and that this would result in areas with high discharge pollution, and would be a hazard for navigational safety given that these areas are primarily large traffic areas for ships and ferries.
1286. Figure 12 provides a map that was submitted by John Duffy (95.001) to demonstrate the areas of the sounds that are located 1000m from MHWS, where discharge would be permitted. Note that this does not consider the additional requirement to be located at least 1000m from marine farms, that has the potential to limit this area.
1287. The map provided demonstrates that the areas where discharge would be permitted is limited to central areas of the Queen Charlotte Sound and Pelorus Sound, Mahau Sound and within Cook Strait and excludes Tory Channel (however it is noted given the location of Marine

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<sup>329</sup> S32 Chapter 15 – Water Quality Water Quality Pg31

<sup>330</sup> S32 Chapter 15 – Water Quality Water Quality Pg31

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farms within Tory Channel the ability to discharge within these areas is already limited by the regulations).

1288. I appreciate that there is concern that there will be a higher level of pollution within these areas, however consider that this needs to be considered alongside the additional management methods that the Council is proposing to put in place, which include pumping stations and toilets. I consider that we also need to be mindful that boat users will be made aware of rules and are more likely to adopt other methods storage of waste, so that the level of waste being discharges is likely to be considerably less than present.

### Pump out facilities

1289. A number of submitters have submitted that the current pump out facilities in the Marlborough Sounds are insufficient (only being 3 at this time) and that the implementation of this rule will lead to huge demand on these facilities, queues for use in peak times and constant failures.

1290. It is most important to note that the proposed policy and rules framework provides a six year lag-time for implementation. As outlined within the s32 report the reason for this is to provide a period within which the public is made aware of the proposed controls as well as providing appropriate facilities for dealing with human waste once the policies are implemented<sup>331</sup>.

1291. This obligation to look for alternative methods of dealing with human waste, places both an obligation on the Council, to provide additional pump out facilities (as outlined within Method 15.M.10 of the MEP – to which no submission were received) and places an obligation on boat owners to consider their roles in eliminating the discharge of untreated human waste from the Marlborough Sounds, an area where they choose to recreate, in order for this management framework to be effective.

1292. The Council acknowledge in the s32<sup>332</sup> that there will be both costs to ratepayers, and costs to boat owners as a result of the implementation of these policies and rules, but I consider to this to be acceptable given the role that both the Council as managers of the environment, and boat owners, being the users of the environment have to play.

1293. The implication of such rule would not be unique. In Turkey, Greece and Italy 'sea parks' exists where the discharge of black and grey water is prohibited, and as such a holding tank for all waste is essential on all ships<sup>333</sup>. In Turkey, the use of Waste Pump out Boats, is prominent, and could be an option that the Council considers. These boats travel from bay to bay, where boats are anchored or moored, and provide pump out facilities with the use of a 'Blue card' (Concession card for pumping out, or for a small fee) to all boats<sup>334</sup>. It is noted within Turkey that there are a large number of pump out stations, the number of which has increased significantly over time, and all Marinas are required to have waste acceptance facilities.

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<sup>331</sup> S32 Chapter 15 – Water Quality Water Quality Pg31

<sup>332</sup> S32 Chapter 15 – Water Quality Water Quality Pg31

<sup>333</sup> <http://www.noonsite.com/Members/sue/R2009-11-11-4>

<sup>334</sup> Per comms with Martin Napier, boat owner and sailor in Turkey

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1294. It is acknowledged that the implementation of this policy does place an obligation on the Council to provide additional facilities within the Sounds 'to make this work', and the Council has a commitment to do so in implementing Method 15.M.10 of the MEP.

1295. The Council also has an obligation under the plan as outlined within Methods 15.M.11 and 15.M.12 to engage with PMNZ, DOC and Boat Owners and Boaties to establish appropriate locations for pump-out stations, and likely capacity demand, and provide education and initiatives to 'get boat owners on board' with the management framework.

1296. I consider that the lag-period for implementation should provide sufficient time in which this can occur.

### Impact on Boat Owners/Users

1297. Many submitters have stated that the proposed provisions will place unreasonable, and prohibitive costs on boat owners, requiring the installation of holding tanks, and that this requirement is unreasonable on small craft holders.

1298. While I acknowledge that there will be additional cost to boat owners, I do not consider that these will be prohibitive or unreasonable.

1299. For small craft holders, it is likely that use will primarily involve day trips, as these vessels are unlikely to cater for over-night stays. It is considered feasible for boat owners to carry portable toilets, that are suitable for boats in these circumstances (and possibly overnight stays). With costs of around \$100-300<sup>335</sup> (dependent on size) I do not consider this unreasonable or prohibitive. It is also noted that manual (pump) toilets for boats are priced at between \$200-300 (I do appreciate that this would not include installation of a holding tanks and maintenance costs).

1300. The Council has anticipated the need for additional facilities to deal with waste, on return to land, and additional toilet facilities, and I would recommend that the locations of these are determined through consultation with boat users with a focus on marinas and popular spots, that would allow boat users to use these facilities prior to departure, or when out.

1301. It is noted that the Maritime NZ website<sup>336</sup> also provides examples of measures that can be used by boat owners and operators without treatment systems to meet discharge requirements which include;

- encouraging crew to use shore-based toilets before you sail
- installing a holding tank so that on board toilets can be used within restricted areas
- fitting deck valves so holding tanks can be pumped out at marina-based reception facilities
- disposing of waste from portable toilets in land-based reception facilities, particularly if a chemical deodorant has been used

<sup>335</sup> <http://www.absolutemarine.co.nz/marine-toilets/chemical-toilets>

<sup>336</sup> <https://www.maritimenz.govt.nz/commercial/environment/sewage-discharge.asp>



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- enquiring whether pump-out facilities are available and operational at your marina before you sail.

1302. While this information is contained in the 'commercial section' of the website, I can see no reason why this information does not also apply to recreational boat owners and operators.

### Consultation

1303. It is apparent from the submissions that the boating community is disappointed with the absence of direct consultation with boat owners regarding the proposed rules on discharges from ships, prior to notification on the MEP.

1304. I sympathise with the submitters, and agree that direct consultation would have been beneficial to both boaties and the Council in terms of establishing a relationship for discussions.

1305. I do not however consider that the absence of consultation will result in any disadvantage, or unfairness to the boating community. As outlined above the provisions propose a 6 year lag time before implementation. This means that boaties will be made aware of the rules, with plenty of time to consider how the rules will affect them, and to put in place measures (if required) in order that they can comply with the provisions. I do not consider that it is unreasonable to think that the nature of the works for boaties required to comply (ie installing holding tanks) can be considered and undertaken well within this timeframe.

### Non – Regulatory Methods

1306. There has been a suggestion by submitters that the Council could look to use non- regulatory methods, in providing a map within recommended discharge spots that are located in areas subject to high tidal flows and therefore high flushing rates.

1307. While I consider that this maybe effective in some ways, it does not make any movement towards the Council and the communities aim to eliminate the discharge of untreated sewerage into coastal waters.

1308. In addition, in light of the number of submissions that have been received in opposition to the proposed policy and rules, I consider that a non-regulatory method is likely to have a very limited uptake. While a non-regulatory method, may go some way to reducing discharge in those areas of the sounds that are subject to lower tidal flows, ultimately it would still result in discharge occurring within the Sounds.

### Cultural Values

1309. There have been two submissions that address cultural values in relation to the discharge of sewerage within the coastal marine area. One submission<sup>337</sup> opposes the policy and rules, stating within the submission that the inference in Volume 1, which infers cultural disgust by Māori at the discharge of sewerage into the sea is not factually sound.

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1310. Te Runanga o Kaikoura and Te Runanga o Ngai Tahu (1189.112), however support the rules on the basis that the discharge of treated or untreated human sewage into the coastal marine area is offensive to Ngai Tahu.
1311. The s32 report states that policies (Policy 15.1.19 – 15.1.21) recognise the strong community preference expressed through consultation to avoid such discharges and acknowledge iwi cultural/spiritual values with respect to human sewage discharges to water<sup>338</sup>. This position is supported by the submission received from Ngai Tahu.
1312. As outlined within Chapter 3 – Marlborough’s Tangata Whenua Iwi, ‘the sea is a food basket for the iwi. As such, practices and elements that defile the mauri and mana of the coastal environment are seen as abhorrent. The discharge of contaminants, such as human sewage, into the sea is an obvious example’.
1313. It is noted that, DOC, in outlining guidance of the application of Policy 23 of the NZCPS (refer to paragraph 1258), that any discharge of sewerage into the coastal environment is required to be informed by an understanding of tangata whenua values and the effects on them. It is clear from the submission received from Ngai Tahu, and the identification of Marlborough’s tangata whenua values in Chapter 3, that there is a clear direction that the discharge of sewerage into the coastal environment is not in line with tangata whenua values.

### Compliance and Monitoring

1314. The submissions primarily raise concern about the difficulty to comply with the rules, and how this will lead to a high level of non-compliance.
1315. As outlined above I consider that there are a number of factors that should ensure that the provisions, as notified, are able to be complied with, and the intentions of the MEP achieved in relation to eliminating the discharge of untreated human sewage to coastal waters.
1316. The proposed lag time for the implementation for the Policy and Rules will provide boat users of the sounds with an opportunity to consider the new rules and the possible implications on them, and, any provide sufficient time in which to take any action that they need to take within the forthcoming 5 years to comply.
1317. The timeframe will also enable the Council to get involved in detailed and meaningful discussions with boat users, to establish that nature of facilities required to assist boat users in complying with the rules, the locations of these facilities, and the level at which these facilities need to be provided. Council is then required to make a commitment to get these facilities up and running.
1318. I also consider, as outlined above, that the Council and boat users should consider themselves equally responsible for ensuring that these provisions can be achieved as managers and users of the unique sounds environment.

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<sup>338</sup> Section 32: Chapter 15 – Water Quality Pg 31

**Recommendation**

1319. For the above reasons, I consider that the following provisions are retained as notified;

- Policy 15.1.20
- Rule 13.6.4 – 13.6.6
- Rule 14.5.4 – 14.5.6
- Rule 15.7.4 – 15.7.6
- Rule 16.7.2 – 16.7.3
- Method 15.M.10 – 15.M.12

## Matter 14 Marine Farming

### Marine farming provisions

1320. The MEP as notified does not contain provisions relating to the management of marine farming. These provisions are currently being developed and at this stage it is not known when the provisions will be publically notified.

1321. The use of the coastal environment for marine farming within the Marlborough Sounds is prevalent, and as such there is a relationship between the provisions to manage the use of the coastal environment and provisions to manage marine farming.

1322. Aquaculture New Zealand (401.172) and Marine Farming Association (426.177) have submitted that the comment contained at the beginning of Chapter 13, that states '*This chapter does not contain provisions managing marine farming*', should be amended to say that '*This chapter does not apply to marine farming structures and activities associated with marine farming*'. They submit that there cannot be a set of polices managing non-marine farming activities which are inconsistent within the marine farming provisions.

1323. At this time the aquaculture / marine farming provisions of the MEP are being developed. I do not know what the content of these provisions will be, and it would be inappropriate to try and anticipate what these provisions will contain.

1324. For this reason, I consider the wording at the start of Chapter 13, provides sufficient direction to plan users that this section of the report will not be used to manage marine farming.

1325. Given that the provisions are still be developed, there is no ability to assess if the polices contained within Chapter 13 are in any way inconsistent with the marine farming provisions. This would require assessment at a time when the details of the marine farming provisions are available. For these reasons, I therefore recommend that the submissions by Aquaculture New Zealand (401.172) and Marine Farming Association (426.177) are rejected.

Marine farming overlay

1326. Aquaculture New Zealand (401.139) have requested that a new method is provided from within the plan to provide a 'marine farming protection overlay is implemented within 1000m of a marine farm'. Reviewing the submission of Aquaculture New Zealand it appears that this overlay would seek to control the discharge of sewerage, foreshore and seabed disturbance and reverse sensitivity. The submission does not provide any detail of a suggested framework for management within this overlay.

1327. As outlined within my recommendation at paragraphs 1319 I recommend that the notified provisions controlling the discharge of sewerage from ships is retained as notified. This will prohibit the discharge of sewerage within 1000m of a marine farm, in line with the submitted 1000m overlay requested.

1328. In response to providing a protection overlay for foreshore and seabed disturbance, and reverse sensitivity within 1000m of a marine farm, I have been provided with no information by the submitters to indicate why this is required, and how this would operate within the MEP. For these reasons I am unable to fully assess the implications of such a provisions.

1329. I therefore recommend that the submission of Aquaculture New Zealand (401.139) is accepted in part.

Definition of Marine Farm

1330. Sanford Limited (1140.071) submit that the definition of a 'Marine farm' in Volume 2: Chapter 25 Definitions, is amended to specify that farms need to be located seaward of MHWS. This submission is supported by further submissions from Red Sky Trust (436) and Aquaculture New Zealand and Marine Farmers Association (FS587).

1331. I do not consider it necessary to amended the definition of Marine farm, as the notified definition identifies that the marine farm is located within the 'coastal marine area'. The coastal marine area is which is defined within s2 of the Act.

1332. I therefore recommend that the submission of Sanford Limited (1140.071) is rejected.

## Appendix 1: Recommended decisions on decisions requested

In some cases the following recommendations may only apply to part of a submission point. This will occur where a single submission point addresses matters covered over multiple topics and therefore the same point will have recommendations against it in two or more s42a reports.

Submission Number	Submission Point	Submitter	Volume	Chapter	Provision	Recommendation
166	46	Te Runanga	1	3	3.	Reject
166	47	Te Runanga	1	3	3.	Reject
166	45	Te Runanga	1	3	3.	Reject
1193	14	Marlborough Environment Centre	1	13		N/A
13	1	Rob Mounsey	1	13	13.	Reject
233	29	Totaranui Limited	1	13	13.	Accept in part
233	30	Totaranui Limited	1	13	13.	Reject
233	31	Totaranui Limited	1	13	13.	Accept in part
233	32	Totaranui Limited	1	13	13.	Accept in part
371	1	PEPANZ	1	13	13.	Accept
401	172	Aquaculture New Zealand	1	13	13.	Reject
404	13	Eric Jorgensen	1	13	13.	Reject
404	14	Eric Jorgensen	1	13	13.	Accept
404	21	Eric Jorgensen	1	13	13.	Accept
404	25	Eric Jorgensen	1	13	13.	Reject
404	27	Eric Jorgensen	1	13	13.	Accept
404	29	Eric Jorgensen	1	13	13.	Accept
404	31	Eric Jorgensen	1	13	13.	Accept
404	35	Eric Jorgensen	1	13	13.	Accept
404	37	Eric Jorgensen	1	13	13.	Accept
404	39	Eric Jorgensen	1	13	13.	Reject
404	40	Eric Jorgensen	1	13	13.	Accept
425	207	Federated Farmers	1	13	13.	Reject
425	208	Federated Farmers	1	13	13.	Reject
425	217	Federated Farmers	1	13	13.	Reject

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426	144	Marine Farming Association	1	13	13.	Reject
426	177	Marine Farming Association	1	13	13.	Reject
426	178	Marine Farming Association	1	13	13.	Reject
426	179	Marine Farming Association	1	13	13.	Reject
426	180	Marine Farming Association	1	13	13.	Reject
477	6	John Malcolm McKee	1	13	13.	Reject
500	1	Ben Clarke	1	13	13.	Reject
641	5	Dan McCall	1	13	13.	Reject
699	2	Pete and Takutai Beech	1	13	13.	Reject
699	7	Pete and Takutai Beech	1	13	13.	Reject
710	29	The Fishing Industry Submitters	1	13	13.	Reject
710	34	The Fishing Industry Submitters	1	13	13.	Reject
715	212	Forest & Bird	1	13	13.	Reject
715	234	Forest & Bird	1	13	13.	Accept
715	256	Forest & Bird	1	13	13.	Accept in part
716	141	FNHTB	1	13	13.	Reject
716	159	FNHTB	1	13	13.	Reject
869	9	KCSRA	1	13	13.	Accept
961	31	Marlborough Chamber of Commerce	1	13	13.	Reject
990	222	Nelson Forests Limited	1	13	13.	Accept
995	17	New Zealand Forest Products Holdings Limited	1	13	13.	Reject
1042	6	Port Underwood Association	1	13	13.	Reject
1112	6	Sarah Cumming	1	13	13.	Reject
1186	21	Te Atiawa o Te Waka-a-Maui	1	13	13.	Reject
1186	30	Te Atiawa o Te Waka-a-Maui	1	13	13.	Accept in part
1186	83	Te Atiawa o Te Waka-a-Maui	1	13	13.	Reject
1187	5	Te Runanga a Rangitane o Wairau	1	13	13.	N/A
1244	22	Z Energy Limited	1	13	13.	Accept
1244	23	Z Energy Limited	1	13	13.	Accept
166	32	Te Runanga o Toa Rangatira	1	13	Issue 13A	Reject
404	15	Eric Jorgensen	1	13	Issue 13A	Accept in part
404	22	Eric Jorgensen	1	13	Issue 13A	Accept in part
425	210	Federated Farmers	1	13	Issue 13A	Reject
425	211	Federated Farmers	1	13	Issue 13A	Reject

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698	73	EDS	1	13	Issue 13A	Reject
715	213	Forest & Bird	1	13	Issue 13A	Reject
716	142	FNHTB	1	13	Issue 13A	Reject
752	28	Guardians of the Sounds	1	13	Issue 13A	Accept in part
869	10	KCSRA	1	13	Issue 13A	Accept
1146	28	Sea Shepherd New Zealand	1	13	Issue 13A	Accept in part
1244	24	Z Energy Limited	1	13	Issue 13A	Accept
233	25	Totaranui Limited	1	13	Objective 13.1	Reject
401	120	Aquaculture New Zealand	1	13	Objective 13.1	Reject
425	212	Federated Farmers	1	13	Objective 13.1	Reject
425	215	Federated Farmers	1	13	Objective 13.1	Reject
426	125	Marine Farming Association	1	13	Objective 13.1	Reject
433	49	PMNZ	1	13	Objective 13.1	Accept in part
479	105	Department of Conservation	1	13	Objective 13.1	Accept
715	214	Forest & Bird	1	13	Objective 13.1	Accept
869	11	KCSRA	1	13	Objective 13.1	Accept
1041	19	Port Clifford Limited	1	13	Objective 13.1	Reject
1189	94	Te Runanga o Kaikoura and Te Runanga o Ngai Tahu	1	13	Objective 13.1	Accept
1244	25	Z Energy Limited	1	13	Objective 13.1	Accept
100	19	East Bay Conservation Society	1	13	Policy 13.1.1	Accept
166	4	Te Runanga o Toa Rangatira	1	13	Policy 13.1.1	Reject
233	24	Totaranui Limited	1	13	Policy 13.1.1	Reject
364	87	Ian Balfour Mitchell	1	13	Policy 13.1.1	Accept
401	127	Aquaculture New Zealand	1	13	Policy 13.1.1	Reject
424	46	Michael and Kristen Gerard	1	13	Policy 13.1.1	Accept
425	213	Federated Farmers	1	13	Policy 13.1.1	Reject
426	132	Marine Farming Association	1	13	Policy 13.1.1	Reject
433	50	PMNZ	1	13	Policy 13.1.1	Accept in part
454	22	Kevin Francis Loe	1	13	Policy 13.1.1	Accept in part
479	106	Department of Conservation	1	13	Policy 13.1.1	Accept
504	55	QCSRA	1	13	Policy 13.1.1	Accept
610	4	Burkhart Fisheries	1	13	Policy 13.1.1	Reject
698	74	EDS	1	13	Policy 13.1.1	Reject
710	21	The Fishing Industry Submitters	1	13	Policy 13.1.1	Reject

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712	51	Flaxbourne Settlers Association	1	13	Policy 13.1.1	Accept in part
715	215	Forest & Bird	1	13	Policy 13.1.1	Reject
716	143	FNHTB	1	13	Policy 13.1.1	Accept
868	39	KCSRA	1	13	Policy 13.1.1	Reject
868	46	KCSRA	1	13	Policy 13.1.1	Addressed in 13.3.2 and 13.3.3
869	12	KCSRA	1	13	Policy 13.1.1	Reject
906	7	Legacy Fishing Limited	1	13	Policy 13.1.1	Reject
995	18	New Zealand Forest Products Holdings Limited	1	13	Policy 13.1.1	Reject
1002	54	New Zealand Transport Agency	1	13	Policy 13.1.1	Reject
1038	6	PauMAC	1	13	Policy 13.1.1	Reject
1041	20	Port Clifford Limited	1	13	Policy 13.1.1	Reject
1189	95	Te Runanga o Kaikoura and Te Runanga o Ngai Tahu	1	13	Policy 13.1.1	Reject
1198	26	Transpower New Zealand Limited	1	13	Policy 13.1.1	Accept in part
1244	26	Z Energy Limited	1	13	Policy 13.1.1	Accept
100	20	East Bay Conservation Society	1	13	Policy 13.1.2	Accept in part
233	23	Totaranui Limited	1	13	Policy 13.1.2	Reject
233	26	Totaranui Limited	1	13	Policy 13.1.2	Accept in part
364	88	Ian Balfour Mitchell	1	13	Policy 13.1.2	Accept
401	128	Aquaculture New Zealand	1	13	Policy 13.1.2	Reject
425	214	Federated Farmers	1	13	Policy 13.1.2	Reject
426	133	Marine Farming Association	1	13	Policy 13.1.2	Reject
454	138	Kevin Francis Loe	1	13	Policy 13.1.2	Accept in part
479	107	Department of Conservation	1	13	Policy 13.1.2	Accept in part
504	56	QCSRA	1	13	Policy 13.1.2	Accept
698	75	EDS	1	13	Policy 13.1.2	Accept in part
712	52	Flaxbourne Settlers Association	1	13	Policy 13.1.2	Accept in part
715	216	Forest & Bird	1	13	Policy 13.1.2	Accept
716	144	FNHTB	1	13	Policy 13.1.2	Accept
869	13	KCSRA	1	13	Policy 13.1.2	Accept
1186	64	Te Atiawa o Te Waka-a-Maui	1	13	Policy 13.1.2	Accept
1189	96	Te Runanga o Kaikoura and Te Runanga o Ngai Tahu	1	13	Policy 13.1.2	Accept
1244	27	Z Energy Limited	1	13	Policy 13.1.2	Accept
401	121	Aquaculture New Zealand	1	13	Objective 13.2	Accept



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425	216	Federated Farmers	1	13	Objective 13.2	Accept
426	126	Marine Farming Association	1	13	Objective 13.2	Accept
479	108	Department of Conservation	1	13	Objective 13.2	Accept
484	36	Clintondale Trust, Whyte Trustee Company Limited	1	13	Objective 13.2	Accept
688	105	Judy and John Hellstrom	1	13	Objective 13.2	Accept
715	217	Forest & Bird	1	13	Objective 13.2	Reject
869	14	KCSRA	1	13	Objective 13.2	Accept
1041	21	Port Clifford Limited	1	13	Objective 13.2	Reject
1189	97	Te Runanga o Kaikoura and Te Runanga o Ngai Tahu	1	13	Objective 13.2	Reject
1244	28	Z Energy Limited	1	13	Objective 13.2	Accept
233	33	Totaranui Limited	1	13	Policy 13.2.1	Reject
364	89	Ian Balfour Mitchell	1	13	Policy 13.2.1	Accept
401	129	Aquaculture New Zealand	1	13	Policy 13.2.1	Reject
404	16	Eric Jorgensen	1	13	Policy 13.2.1	Reject
425	218	Federated Farmers	1	13	Policy 13.2.1	Reject
426	134	Marine Farming Association	1	13	Policy 13.2.1	Accept
433	51	PMNZ	1	13	Policy 13.2.1	Reject
454	23	Kevin Francis Loe	1	13	Policy 13.2.1	Accept
479	109	Department of Conservation	1	13	Policy 13.2.1	Accept
610	5	Burkhart Fisheries	1	13	Policy 13.2.1	Reject
698	76	EDS	1	13	Policy 13.2.1	Reject
698	89	EDS	1	13	Policy 13.2.1	Applies to Policy 13.12.1
710	22	The Fishing Industry Submitters	1	13	Policy 13.2.1	Reject
712	74	Flaxbourne Settlers Association	1	13	Policy 13.2.1	Accept
715	218	Forest & Bird	1	13	Policy 13.2.1	Reject
868	40	KCSRA	1	13	Policy 13.2.1	Accept
906	8	Legacy Fishing Limited	1	13	Policy 13.2.1	Reject
1038	7	PauaMAC	1	13	Policy 13.2.1	Reject
1041	23	Port Clifford Limited	1	13	Policy 13.2.1	Reject
1189	98	Te Runanga o Kaikoura and Te Runanga o Ngai Tahu	1	13	Policy 13.2.1	Reject
1244	29	Z Energy Limited	1	13	Policy 13.2.1	Accept
152	2	Clova Bay Residents Association Inc	1	13	Policy 13.2.2	Reject
210	13	Kevin Wilson	1	13	Policy 13.2.2	Reject

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364	90	Ian Balfour Mitchell	1	13	Policy 13.2.2	Accept
401	130	Aquaculture New Zealand	1	13	Policy 13.2.2	Accept
424	47	Michael and Kristen Gerard	1	13	Policy 13.2.2	Reject
425	219	Federated Farmers	1	13	Policy 13.2.2	Reject
426	135	Marine Farming Association	1	13	Policy 13.2.2	Accept
433	52	PMNZ	1	13	Policy 13.2.2	Accept
464	23	Chorus New Zealand limited	1	13	Policy 13.2.2	Reject
504	57	QCSRA	1	13	Policy 13.2.2	Accept
688	106	Judy and John Hellstrom	1	13	Policy 13.2.2	Accept
715	219	Forest & Bird	1	13	Policy 13.2.2	Accept
868	41	KCSRA	1	13	Policy 13.2.2	Reject
873	40	KiwiRail Holdings Limited	1	13	Policy 13.2.2	Accept
996	5	New Zealand Institute of Surveyors	1	13	Policy 13.2.2	Reject
1002	55	New Zealand Transport Agency	1	13	Policy 13.2.2	Accept
1041	24	Port Clifford Limited	1	13	Policy 13.2.2	Reject
1158	21	Spark	1	13	Policy 13.2.2	Reject
1186	65	Te Atiawa o Te Waka-a-Maui	1	13	Policy 13.2.2	Reject
1198	27	Transpower New Zealand Limited	1	13	Policy 13.2.2	Accept
1244	30	Z Energy Limited	1	13	Policy 13.2.2	Accept
152	32	Clova Bay Residents Association Inc	1	13	Policy 13.2.3	Accept
364	91	Ian Balfour Mitchell	1	13	Policy 13.2.3	Accept
401	131	Aquaculture New Zealand	1	13	Policy 13.2.3	Reject
404	17	Eric Jorgensen	1	13	Policy 13.2.3	Accept
424	48	Michael and Kristen Gerard	1	13	Policy 13.2.3	Accept
426	136	Marine Farming Association	1	13	Policy 13.2.3	Reject
504	58	QCSRA	1	13	Policy 13.2.3	Accept
688	107	Judy and John Hellstrom	1	13	Policy 13.2.3	Accept
715	220	Forest & Bird	1	13	Policy 13.2.3	Accept
716	145	FNHTB	1	13	Policy 13.2.3	Accept
868	42	KCSRA	1	13	Policy 13.2.3	Accept
873	41	KiwiRail Holdings Limited	1	13	Policy 13.2.3	Accept
1002	56	New Zealand Transport Agency	1	13	Policy 13.2.3	Reject
1041	25	Port Clifford Limited	1	13	Policy 13.2.3	Reject
1244	31	Z Energy Limited	1	13	Policy 13.2.3	Accept

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152	31	Clova Bay Residents Association Inc	1	13	Policy 13.2.4	Accept
364	92	Ian Balfour Mitchell	1	13	Policy 13.2.4	Accept
401	132	Aquaculture New Zealand	1	13	Policy 13.2.4	Reject
404	18	Eric Jorgensen	1	13	Policy 13.2.4	Reject
425	220	Federated Farmers	1	13	Policy 13.2.4	Reject
426	137	Marine Farming Association	1	13	Policy 13.2.4	Reject
715	221	Forest & Bird	1	13	Policy 13.2.4	Accept
716	146	FNHTB	1	13	Policy 13.2.4	Accept
868	43	KCSRA	1	13	Policy 13.2.4	Accept
879	2	Laurence Etheredge	1	13	Policy 13.2.4	Accept
1186	66	Te Atiawa o Te Waka-a-Maui	1	13	Policy 13.2.4	Reject
1244	32	Z Energy Limited	1	13	Policy 13.2.4	Accept
100	21	East Bay Conservation Society	1	13	Policy 13.2.5	Accept in part
152	30	Clova Bay Residents Association Inc	1	13	Policy 13.2.5	Reject
364	93	Ian Balfour Mitchell	1	13	Policy 13.2.5	Accept
401	133	Aquaculture New Zealand	1	13	Policy 13.2.5	Reject
404	19	Eric Jorgensen	1	13	Policy 13.2.5	Accept in part
425	221	Federated Farmers	1	13	Policy 13.2.5	Reject
426	138	Marine Farming Association	1	13	Policy 13.2.5	Reject
433	53	PMNZ	1	13	Policy 13.2.5	Reject
501	52	Te Runanga O Ngati Kuia	1	13	Policy 13.2.5	Reject
698	77	EDS	1	13	Policy 13.2.5	Accept in part
698	78	EDS	1	13	Policy 13.2.5	Reject
715	222	Forest & Bird	1	13	Policy 13.2.5	Accept
716	147	FNHTB	1	13	Policy 13.2.5	Accept in part
868	44	KCSRA	1	13	Policy 13.2.5	Reject
869	15	KCSRA	1	13	Policy 13.2.5	Accept
873	42	KiwiRail Holdings Limited	1	13	Policy 13.2.5	Accept
1041	26	Port Clifford Limited	1	13	Policy 13.2.5	Reject
1187	6	Te Runanga a Rangitane o Wairau	1	13	Policy 13.2.5	Not Applicable
1244	33	Z Energy Limited	1	13	Policy 13.2.5	Reject
152	29	Clova Bay Residents Association Inc	1	13	Policy 13.2.6	Reject
364	94	Ian Balfour Mitchell	1	13	Policy 13.2.6	Accept
401	134	Aquaculture New Zealand	1	13	Policy 13.2.6	Reject

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404	20	Eric Jorgensen	1	13	Policy 13.2.6	Accept in part
426	139	Marine Farming Association	1	13	Policy 13.2.6	Reject
433	54	PMNZ	1	13	Policy 13.2.6	Reject
501	53	Te Runanga O Ngati Kuia	1	13	Policy 13.2.6	Reject
688	108	Judy and John Hellstrom	1	13	Policy 13.2.6	Accept
715	223	Forest & Bird	1	13	Policy 13.2.6	Accept
716	148	FNHTB	1	13	Policy 13.2.6	Accept in part
868	45	KCSRA	1	13	Policy 13.2.6	Reject
873	43	KiwiRail Holdings Limited	1	13	Policy 13.2.6	Reject
1244	34	Z Energy Limited	1	13	Policy 13.2.6	Reject
484	39	Clintondale Trust, Whyte Trustee Company Limited	1	13	13.M.1	Accept
710	23	The Fishing Industry Submitters	1	13	13.M.1	Reject
715	224	Forest & Bird	1	13	13.M.1	Accept
716	149	FNHTB	1	13	13.M.1	Accept
1244	35	Z Energy Limited	1	13	13.M.1	Accept
710	24	The Fishing Industry Submitters	1	13	13.M.2	Reject
715	225	Forest & Bird	1	13	13.M.2	Reject
716	150	FNHTB	1	13	13.M.2	Accept
1244	36	Z Energy Limited	1	13	13.M.2	Accept
710	25	The Fishing Industry Submitters	1	13	13.M.3	Reject
715	226	Forest & Bird	1	13	13.M.3	Accept
716	151	FNHTB	1	13	13.M.3	Accept
1244	37	Z Energy Limited	1	13	13.M.3	Accept
710	26	The Fishing Industry Submitters	1	13	13.M.4	Reject
715	227	Forest & Bird	1	13	13.M.4	Accept
716	152	FNHTB	1	13	13.M.4	Accept
1244	38	Z Energy Limited	1	13	13.M.4	Accept
433	55	PMNZ	1	13	13.M.5	Accept
710	27	The Fishing Industry Submitters	1	13	13.M.5	Reject
716	153	FNHTB	1	13	13.M.5	Accept
1002	57	New Zealand Transport Agency	1	13	13.M.5	Accept
1186	67	Te Atiawa o Te Waka-a-Maui	1	13	13.M.5	Reject
1244	39	Z Energy Limited	1	13	13.M.5	Accept
710	28	The Fishing Industry Submitters	1	13	13.M.6	Reject

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715	228	Forest & Bird	1	13	13.M.6	Accept in part
1244	40	Z Energy Limited	1	13	13.M.6	Accept
715	229	Forest & Bird	1	13	Issue 13B	Reject
716	154	FNHTB	1	13	Issue 13B	Accept
845	4	Kenneth R and Sara M Roush	1	13	Issue 13C	Reject
1051	3	Cape Campbell Farm	1	13	Issue 13B	Reject
1051	4	Cape Campbell Farm	1	13	Objective 13.3	Accept in part
152	28	Clova Bay Residents Association Inc	1	13	Policy 13.3.1	Accept
166	31	Te Runanga o Toa Rangatira	1	13	Policy 13.3.1	Accept
280	60	NMDHB	1	13	Policy 13.3.1	Accept
401	135	Aquaculture New Zealand	1	13	Policy 13.3.1	Reject
404	23	Eric Jorgensen	1	13	Policy 13.3.1	Reject
424	49	Michael and Kristen Gerard	1	13	Policy 13.3.1	Accept
425	222	Federated Farmers	1	13	Policy 13.3.1	Accept
426	140	Marine Farming Association	1	13	Policy 13.3.1	Reject
454	24	Kevin Francis Loe	1	13	Policy 13.3.1	Accept
504	59	QCSRA	1	13	Policy 13.3.1	Reject
712	75	Flaxbourne Settlers Association	1	13	Policy 13.3.1	Accept
715	230	Forest & Bird	1	13	Policy 13.3.1	Accept in part
768	49	Heritage New Zealand Pouhere Taonga	1	13	Policy 13.3.1	Accept
873	44	KiwiRail Holdings Limited	1	13	Policy 13.3.1	Accept
1186	68	Te Atiawa o Te Waka-a-Maui	1	13	Policy 13.3.1	Accept in part
152	27	Clova Bay Residents Association Inc	1	13	Policy 13.3.2	Accept
424	50	Michael and Kristen Gerard	1	13	Policy 13.3.2	Accept
425	223	Federated Farmers	1	13	Policy 13.3.2	Reject
715	231	Forest & Bird	1	13	Policy 13.3.2	Reject
868	47	KCSRA	1	13	Policy 13.3.2	Accept
999	3	New Zealand Sport Fishing Council	1	13	Policy 13.3.2	Accept
1186	69	Te Atiawa o Te Waka-a-Maui	1	13	Policy 13.3.2	Reject
152	26	Clova Bay Residents Association Inc	1	13	Policy 13.3.3	Accept
280	61	NMDHB	1	13	Policy 13.3.3	Reject
404	24	Eric Jorgensen	1	13	Policy 13.3.3	Accept in part
424	51	Michael and Kristen Gerard	1	13	Policy 13.3.3	Accept
425	224	Federated Farmers	1	13	Policy 13.3.3	Accept

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454	25	Kevin Francis Loe	1	13	Policy 13.3.3	Accept
504	60	QCSRA	1	13	Policy 13.3.3	Accept
712	76	Flaxbourne Settlers Association	1	13	Policy 13.3.3	Accept
715	232	Forest & Bird	1	13	Policy 13.3.3	Accept
868	48	KCSRA	1	13	Policy 13.3.3	Accept
100	22	East Bay Conservation Society	1	13	Policy 13.3.4	Accept
152	25	Clova Bay Residents Association Inc	1	13	Policy 13.3.4	Reject
218	1	Salvador Delgado Oro Laprida	1	13	Policy 13.3.4	Reject
401	136	Aquaculture New Zealand	1	13	Policy 13.3.4	Reject
424	52	Michael and Kristen Gerard	1	13	Policy 13.3.4	Reject
426	141	Marine Farming Association	1	13	Policy 13.3.4	Reject
433	56	PMNZ	1	13	Policy 13.3.4	Reject
640	6	Douglas and Colleen Robbins	1	13	Policy 13.3.4	Reject
715	233	Forest & Bird	1	13	Policy 13.3.4	Accept
716	155	FNHTB	1	13	Policy 13.3.4	Reject
738	9	Glenda Vera Robb	1	13	Policy 13.3.4	Reject
868	49	KCSRA	1	13	Policy 13.3.4	Reject
935	6	Melva Joy Robb	1	13	Policy 13.3.4	Reject
999	4	New Zealand Sport Fishing Council	1	13	Policy 13.3.4	Accept
152	24	Clova Bay Residents Association Inc	1	13	Issue 13C	Reject
404	26	Eric Jorgensen	1	13	Issue 13C	Reject
501	54	Te Runanga O Ngati Kuia	1	13	Issue 13C	Reject
578	28	Pinder Family Trust	1	13	Issue 13C	N/A
610	3	Burkhart Fisheries	1	13	Issue 13C	Accept in part
710	30	The Fishing Industry Submitters	1	13	Issue 13C	Accept in part
715	235	Forest & Bird	1	13	Issue 13C	Reject
757	1	Hugh Shields	1	13	Issue 13C	Accept in part
868	50	KCSRA	1	13	Issue 13C	Reject
906	3	Legacy Fishing Limited	1	13	Issue 13C	Reject
1038	3	PauaMAC	1	13	Issue 13C	Reject
424	97	Michael and Kristen Gerard	1	13	Objective 13.4	Reject
484	37	Clintondale Trust, Whyte Trustee Company Limited	1	13	Objective 13.4	Reject
501	55	Te Runanga O Ngati Kuia	1	13	Objective 13.4	Reject
688	117	Judy and John Hellstrom	1	13	Objective 13.4	Reject

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710	31	The Fishing Industry Submitters	1	13	Objective 13.4	Accept in part
715	236	Forest & Bird	1	13	Objective 13.4	Accept in part
716	156	FNHTB	1	13	Objective 13.4	Reject
757	2	Hugh Shields	1	13	Objective 13.4	Accept in part
868	53	KCSRA	1	13	Objective 13.4	Reject
906	4	Legacy Fishing Limited	1	13	Objective 13.4	Accept in part
1186	70	Te Atiawa o Te Waka-a-Maui	1	13	Objective 13.4	Reject
152	23	Clova Bay Residents Association Inc	1	13	Policy 13.4.1	Reject
364	95	Ian Balfour Mitchell	1	13	Policy 13.4.1	Reject
424	53	Michael and Kristen Gerard	1	13	Policy 13.4.1	Reject
504	61	QCSRA	1	13	Policy 13.4.1	Reject
578	29	Pinder Family Trust	1	13	Policy 13.4.1	Reject
688	118	Judy and John Hellstrom	1	13	Policy 13.4.1	Reject
710	32	The Fishing Industry Submitters	1	13	Policy 13.4.1	Accept in part
715	237	Forest & Bird	1	13	Policy 13.4.1	Reject
716	157	FNHTB	1	13	Policy 13.4.1	Reject
752	29	Guardians of the Sounds	1	13	Policy 13.4.1	Reject
757	3	Hugh Shields	1	13	Policy 13.4.1	Accept in part
868	51	KCSRA	1	13	Policy 13.4.1	Reject
906	5	Legacy Fishing Limited	1	13	Policy 13.4.1	Accept
999	5	New Zealand Sport Fishing Council	1	13	Policy 13.4.1	Reject
1038	4	PauaMAC	1	13	Policy 13.4.1	Accept in part
1146	29	Sea Shepherd New Zealand	1	13	Policy 13.4.1	Reject
152	22	Clova Bay Residents Association Inc	1	13	Policy 13.4.2	Reject
364	96	Ian Balfour Mitchell	1	13	Policy 13.4.2	Reject
424	54	Michael and Kristen Gerard	1	13	Policy 13.4.2	Reject
424	98	Michael and Kristen Gerard	1	13	Policy 13.4.2	Reject
433	61	PMNZ	1	13	Policy 13.4.2	Reject
504	62	QCSRA	1	13	Policy 13.4.2	Reject
688	119	Judy and John Hellstrom	1	13	Policy 13.4.2	Reject
710	33	The Fishing Industry Submitters	1	13	Policy 13.4.2	Accept in part
715	238	Forest & Bird	1	13	Policy 13.4.2	Reject
716	158	FNHTB	1	13	Policy 13.4.2	Reject
757	4	Hugh Shields	1	13	Policy 13.4.2	Accept in part

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868	52	KCSRA	1	13	Policy 13.4.2	Reject
869	45	KCSRA	1	13	Policy 13.4.2	Reject
906	6	Legacy Fishing Limited	1	13	Policy 13.4.2	Reject
999	6	New Zealand Sport Fishing Council	1	13	Policy 13.4.2	Reject
1038	5	PauaMAC	1	13	Policy 13.4.2	Accept in part
1186	71	Te Atiawa o Te Waka-a-Maui	1	13	Policy 13.4.2	Reject
504	63	QCSRA	1	13	13.M.9	Reject
688	120	Judy and John Hellstrom	1	13	13.M.9	Reject
710	35	The Fishing Industry Submitters	1	13	13.M.9	Accept in part
715	239	Forest & Bird	1	13	13.M.9	Reject
757	5	Hugh Shields	1	13	13.M.9	Accept
1186	72	Te Atiawa o Te Waka-a-Maui	1	13	13.M.9	Reject
578	30	Pinder Family Trust	1	13	Issue 13E	Reject
715	253	Forest & Bird	1	13	Issue 13E	Accept
752	30	Guardians of the Sounds	1	13	Issue 13E	Reject
1146	30	Sea Shepherd New Zealand	1	13	Issue 13E	Reject
715	254	Forest & Bird	1	13	Objective 13.6	Accept
873	52	KiwiRail Holdings Limited	1	13	Objective 13.6	Accept
960	5	Marlborough Berth and Mooring Association	1	13	Objective 13.6	Accept
424	57	Michael and Kristen Gerard	1	13	Policy 13.6.1	Accept
479	110	Department of Conservation	1	13	Policy 13.6.1	Accept
501	56	Te Runanga O Ngati Kuia	1	13	Policy 13.6.1	Accept in part
715	255	Forest & Bird	1	13	Policy 13.6.1	Reject
868	55	KCSRA	1	13	Policy 13.6.1	Accept
960	6	Marlborough Berth and Mooring Association	1	13	Policy 13.6.1	Accept
1041	27	Port Clifford Limited	1	13	Policy 13.6.1	Reject
1233	4	Waikawa Boating Club	1	13	Policy 13.6.1	Accept
1246	4	Pelorus Boating Club Incorporated	1	13	Policy 13.6.1	Accept
578	31	Pinder Family Trust	1	13	Objective 13.7	Accept
752	31	Guardians of the Sounds	1	13	Objective 13.7	Accept
1041	28	Port Clifford Limited	1	13	Objective 13.7	Accept
1146	31	Sea Shepherd New Zealand	1	13	Objective 13.7	Accept
424	58	Michael and Kristen Gerard	1	13	Policy 13.7.1	Accept
578	32	Pinder Family Trust	1	13	Policy 13.7.1	Accept



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752	32	Guardians of the Sounds	1	13	Policy 13.7.1	Accept
868	56	KCSRA	1	13	Policy 13.7.1	Accept
960	7	Marlborough Berth and Mooring Association	1	13	Policy 13.7.1	Accept
1041	29	Port Clifford Limited	1	13	Policy 13.7.1	Accept
1146	32	Sea Shepherd New Zealand	1	13	Policy 13.7.1	Accept
1233	5	Waikawa Boating Club	1	13	Policy 13.7.1	Accept
1246	5	Pelorus Boating Club Incorporated	1	13	Policy 13.7.1	Accept
401	140	Aquaculture New Zealand	1	13	Policy 13.7.2	Reject
424	59	Michael and Kristen Gerard	1	13	Policy 13.7.2	Accept
426	145	Marine Farming Association	1	13	Policy 13.7.2	Reject
578	33	Pinder Family Trust	1	13	Policy 13.7.2	Accept
752	33	Guardians of the Sounds	1	13	Policy 13.7.2	Accept
868	57	KCSRA	1	13	Policy 13.7.2	Accept
1041	30	Port Clifford Limited	1	13	Policy 13.7.2	Accept
1146	33	Sea Shepherd New Zealand	1	13	Policy 13.7.2	Accept
686	1	Ernest and Catherine Henshaw	1	13	Objective 13.8	Accept
688	110	Judy and John Hellstrom	1	13	Objective 13.8	Accept
688	111	Judy and John Hellstrom	1	13	Policy 13.8.1	Accept
960	8	Marlborough Berth and Mooring Association	1	13	Policy 13.8.1	Accept
610	7	Burkhart Fisheries	1	13	Policy 13.8.2	Reject
686	2	Ernest and Catherine Henshaw	1	13	Policy 13.8.2	Accept
688	112	Judy and John Hellstrom	1	13	Policy 13.8.2	Accept
710	36	The Fishing Industry Submitters	1	13	Policy 13.8.2	Accept in part
906	10	Legacy Fishing Limited	1	13	Policy 13.8.2	Reject
960	9	Marlborough Berth and Mooring Association	1	13	Policy 13.8.2	Accept
1038	9	PauaMAC	1	13	Policy 13.8.2	Reject
1186	73	Te Atiawa o Te Waka-a-Maui	1	13	Policy 13.8.2	Reject
1253	1	Michael Philip Rothwell	1	13	Policy 13.8.2	Accept in part
688	196	Judy and John Hellstrom	1	13	Policy 13.8.3	Accept
960	10	Marlborough Berth and Mooring Association	1	13	Policy 13.8.3	Accept
504	66	QCSRA	1	13	Objective 13.9	Accept
686	3	Ernest and Catherine Henshaw	1	13	Objective 13.9	Accept
688	114	Judy and John Hellstrom	1	13	Objective 13.9	Accept
699	6	Pete and Takutai Beech	1	13	Objective 13.9	Reject

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960	11	Marlborough Berth and Mooring Association	1	13	Objective 13.9	Accept
364	106	Ian Balfour Mitchell	1	13	Policy 13.9.1	Accept
424	60	Michael and Kristen Gerard	1	13	Policy 13.9.1	Accept
464	25	Chorus New Zealand limited	1	13	Policy 13.9.1	Accept
504	67	QCSRA	1	13	Policy 13.9.1	Reject
686	4	Ernest and Catherine Henshaw	1	13	Policy 13.9.1	Accept in part
688	115	Judy and John Hellstrom	1	13	Policy 13.9.1	Accept
868	58	KCSRA	1	13	Policy 13.9.1	Accept
1158	23	Spark	1	13	Policy 13.9.1	Accept
1185	6	Taurewa Lodge Trust	1	13	Policy 13.9.1	Accept
1186	74	Te Atiawa o Te Waka-a-Maui	1	13	Policy 13.9.1	Accept
100	24	East Bay Conservation Society	1	13	Policy 13.9.2	Reject
203	2	Thomas Norton Te Awaiti Ltd	1	13	Policy 13.9.2	Reject
231	1	Jono Wilson	1	13	Policy 13.9.2	Reject
364	107	Ian Balfour Mitchell	1	13	Policy 13.9.2	Accept
424	61	Michael and Kristen Gerard	1	13	Policy 13.9.2	Accept
432	3	Kevin and Mary Daly	1	13	Policy 13.9.2	Reject
613	2	Cawthron Institute	1	13	Policy 13.9.2	Reject
688	116	Judy and John Hellstrom	1	13	Policy 13.9.2	Accept
868	59	KCSRA	1	13	Policy 13.9.2	Accept
950	3	Michael William Rosson	1	13	Policy 13.9.2	Reject
1185	7	Taurewa Lodge Trust	1	13	Policy 13.9.2	Reject
1315	1	Hori (George) Turi Elkington	1	13	Policy 13.9.2	Reject
364	108	Ian Balfour Mitchell	1	13	Policy 13.9.3	Accept
424	62	Michael and Kristen Gerard	1	13	Policy 13.9.3	Accept
868	60	KCSRA	1	13	Policy 13.9.3	Accept
364	109	Ian Balfour Mitchell	1	13	Policy 13.9.4	Accept
404	30	Eric Jorgensen	1	13	Policy 13.9.4	Accept
424	63	Michael and Kristen Gerard	1	13	Policy 13.9.4	Accept
868	61	KCSRA	1	13	Policy 13.9.4	Accept
364	110	Ian Balfour Mitchell	1	13	Policy 13.9.5	Accept
424	64	Michael and Kristen Gerard	1	13	Policy 13.9.5	Accept
868	62	KCSRA	1	13	Policy 13.9.5	Accept
364	111	Ian Balfour Mitchell	1	13	Policy 13.9.6	Accept

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424	65	Michael and Kristen Gerard	1	13	Policy 13.9.6	Accept
503	1	Yachting NZ	1	13	Policy 13.9.6	Reject
868	63	KCSRA	1	13	Policy 13.9.6	Accept
364	112	Ian Balfour Mitchell	1	13	Policy 13.9.7	Accept
424	66	Michael and Kristen Gerard	1	13	Policy 13.9.7	Accept
686	5	Ernest and Catherine Henshaw	1	13	Policy 13.9.7	Accept
868	64	KCSRA	1	13	Policy 13.9.7	Accept
364	113	Ian Balfour Mitchell	1	13	Policy 13.9.8	Accept
424	67	Michael and Kristen Gerard	1	13	Policy 13.9.8	Accept
868	65	KCSRA	1	13	Policy 13.9.8	Accept
688	144	Judy and John Hellstrom	1	13	Issue 13F	Reject
715	257	Forest & Bird	1	13	Issue 13F	Reject
401	122	Aquaculture New Zealand	1	13	Objective 13.10	Reject
425	229	Federated Farmers	1	13	Objective 13.10	Reject
426	127	Marine Farming Association	1	13	Objective 13.10	Reject
433	57	PMNZ	1	13	Objective 13.10	Accept
464	26	Chorus New Zealand limited	1	13	Objective 13.10	Reject
715	258	Forest & Bird	1	13	Objective 13.10	Reject
1002	58	New Zealand Transport Agency	1	13	Objective 13.10	Accept
1041	31	Port Clifford Limited	1	13	Objective 13.10	Accept
1158	24	Spark	1	13	Objective 13.10	Reject
1186	75	Te Atiawa o Te Waka-a-Maui	1	13	Objective 13.10	Reject
364	114	Ian Balfour Mitchell	1	13	Policy 13.10.1	Accept
424	68	Michael and Kristen Gerard	1	13	Policy 13.10.1	Accept
613	3	Cawthron Institute	1	13	Policy 13.10.1	Reject
715	259	Forest & Bird	1	13	Policy 13.10.1	Accept
1041	32	Port Clifford Limited	1	13	Policy 13.10.1	Accept
1198	28	Transpower New Zealand Limited	1	13	Policy 13.10.1	Reject
364	115	Ian Balfour Mitchell	1	13	Policy 13.10.2	Accept
424	69	Michael and Kristen Gerard	1	13	Policy 13.10.2	Accept
715	260	Forest & Bird	1	13	Policy 13.10.2	Accept
1041	33	Port Clifford Limited	1	13	Policy 13.10.2	Reject
364	116	Ian Balfour Mitchell	1	13	Policy 13.10.3	Accept
401	141	Aquaculture New Zealand	1	13	Policy 13.10.3	Reject

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424	70	Michael and Kristen Gerard	1	13	Policy 13.10.3	Accept
426	146	Marine Farming Association	1	13	Policy 13.10.3	Reject
698	82	EDS	1	13	Policy 13.10.3	Reject
715	261	Forest & Bird	1	13	Policy 13.10.3	Accept
1002	59	New Zealand Transport Agency	1	13	Policy 13.10.3	Accept
1041	34	Port Clifford Limited	1	13	Policy 13.10.3	Reject
364	117	Ian Balfour Mitchell	1	13	Policy 13.10.4	Accept
424	71	Michael and Kristen Gerard	1	13	Policy 13.10.4	Accept
504	68	QCSRA	1	13	Policy 13.10.4	Accept
688	121	Judy and John Hellstrom	1	13	Policy 13.10.4	Accept
715	262	Forest & Bird	1	13	Policy 13.10.4	Accept
364	118	Ian Balfour Mitchell	1	13	Policy 13.10.5	Accept
404	32	Eric Jorgensen	1	13	Policy 13.10.5	Accept
424	72	Michael and Kristen Gerard	1	13	Policy 13.10.5	Accept
504	69	QCSRA	1	13	Policy 13.10.5	Accept
610	8	Burkhart Fisheries	1	13	Policy 13.10.5	Reject
688	122	Judy and John Hellstrom	1	13	Policy 13.10.5	Accept
698	83	EDS	1	13	Policy 13.10.5	Reject
710	37	The Fishing Industry Submitters	1	13	Policy 13.10.5	Reject
715	263	Forest & Bird	1	13	Policy 13.10.5	Accept
873	45	KiwiRail Holdings Limited	1	13	Policy 13.10.5	Accept
906	11	Legacy Fishing Limited	1	13	Policy 13.10.5	Reject
967	8	Marlborough Roads	1	13	Policy 13.10.5	Accept
1002	60	New Zealand Transport Agency	1	13	Policy 13.10.5	Accept
1038	10	PauaMAC	1	13	Policy 13.10.5	Reject
1041	35	Port Clifford Limited	1	13	Policy 13.10.5	Reject
339	25	Sharon Parkes	1	13	Policy 13.10.6	Reject
364	119	Ian Balfour Mitchell	1	13	Policy 13.10.6	Accept
401	142	Aquaculture New Zealand	1	13	Policy 13.10.6	Reject
424	73	Michael and Kristen Gerard	1	13	Policy 13.10.6	Accept
425	230	Federated Farmers	1	13	Policy 13.10.6	Reject
426	147	Marine Farming Association	1	13	Policy 13.10.6	Reject
688	123	Judy and John Hellstrom	1	13	Policy 13.10.6	Accept
715	264	Forest & Bird	1	13	Policy 13.10.6	Accept

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1041	36	Port Clifford Limited	1	13	Policy 13.10.6	Reject
1186	76	Te Atiawa o Te Waka-a-Maui	1	13	Policy 13.10.6	Reject
364	120	Ian Balfour Mitchell	1	13	Policy 13.10.7	Accept
424	74	Michael and Kristen Gerard	1	13	Policy 13.10.7	Accept
425	231	Federated Farmers	1	13	Policy 13.10.7	Reject
688	124	Judy and John Hellstrom	1	13	Policy 13.10.7	Accept
715	265	Forest & Bird	1	13	Policy 13.10.7	Accept
1041	37	Port Clifford Limited	1	13	Policy 13.10.7	Accept
364	121	Ian Balfour Mitchell	1	13	Policy 13.10.8	Accept
424	75	Michael and Kristen Gerard	1	13	Policy 13.10.8	Accept
715	266	Forest & Bird	1	13	Policy 13.10.8	Accept
364	122	Ian Balfour Mitchell	1	13	Policy 13.10.9	Accept
424	76	Michael and Kristen Gerard	1	13	Policy 13.10.9	Accept
715	267	Forest & Bird	1	13	Policy 13.10.9	Accept
364	123	Ian Balfour Mitchell	1	13	Policy 13.10.10	Accept
401	143	Aquaculture New Zealand	1	13	Policy 13.10.10	Accept
424	77	Michael and Kristen Gerard	1	13	Policy 13.10.10	Accept
426	148	Marine Farming Association	1	13	Policy 13.10.10	Accept
715	268	Forest & Bird	1	13	Policy 13.10.10	Accept
1198	29	Transpower New Zealand Limited	1	13	Policy 13.10.10	Accept
364	124	Ian Balfour Mitchell	1	13	Policy 13.10.11	Accept
401	144	Aquaculture New Zealand	1	13	Policy 13.10.11	Reject
424	78	Michael and Kristen Gerard	1	13	Policy 13.10.11	Accept
426	149	Marine Farming Association	1	13	Policy 13.10.11	Reject
501	57	Te Runanga O Ngati Kuia	1	13	Policy 13.10.11	Reject
710	38	The Fishing Industry Submitters	1	13	Policy 13.10.11	Reject
715	269	Forest & Bird	1	13	Policy 13.10.11	Accept
364	125	Ian Balfour Mitchell	1	13	Policy 13.10.12	Accept
424	79	Michael and Kristen Gerard	1	13	Policy 13.10.12	Accept
715	270	Forest & Bird	1	13	Policy 13.10.12	Accept
364	126	Ian Balfour Mitchell	1	13	Policy 13.10.13	Accept
424	80	Michael and Kristen Gerard	1	13	Policy 13.10.13	Accept
715	271	Forest & Bird	1	13	Policy 13.10.13	Accept
231	4	Jono Wilson	1	13	Policy 13.10.14	Reject

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364	127	Ian Balfour Mitchell	1	13	Policy 13.10.14	Accept
424	81	Michael and Kristen Gerard	1	13	Policy 13.10.14	Accept
610	13	Burkhart Fisheries	1	13	Policy 13.10.14	Reject
710	39	The Fishing Industry Submitters	1	13	Policy 13.10.14	Reject
715	272	Forest & Bird	1	13	Policy 13.10.14	Accept
906	16	Legacy Fishing Limited	1	13	Policy 13.10.14	Reject
1038	14	PauaMAC	1	13	Policy 13.10.14	Reject
69	1	Hugh Bethell	1	13	Policy 13.10.15	Reject
100	1	East Bay Conservation Society	1	13	Policy 13.10.15	Reject
231	2	Jono Wilson	1	13	Policy 13.10.15	Reject
364	128	Ian Balfour Mitchell	1	13	Policy 13.10.15	Accept
424	82	Michael and Kristen Gerard	1	13	Policy 13.10.15	Accept
688	125	Judy and John Hellstrom	1	13	Policy 13.10.15	Reject
715	273	Forest & Bird	1	13	Policy 13.10.15	Accept
845	5	Kenneth R and Sara M Roush	1	13	Policy 13.10.15	Accept in part
873	46	KiwiRail Holdings Limited	1	13	Policy 13.10.15	Reject
1042	7	Port Underwood Association	1	13	Policy 13.10.15	Accept in part
364	129	Ian Balfour Mitchell	1	13	Policy 13.10.16	Accept
424	83	Michael and Kristen Gerard	1	13	Policy 13.10.16	Accept
610	14	Burkhart Fisheries	1	13	Policy 13.10.16	Reject
688	126	Judy and John Hellstrom	1	13	Policy 13.10.16	Reject
710	41	The Fishing Industry Submitters	1	13	Policy 13.10.16	Reject
715	274	Forest & Bird	1	13	Policy 13.10.16	Accept
906	17	Legacy Fishing Limited	1	13	Policy 13.10.16	Reject
1038	15	PauaMAC	1	13	Policy 13.10.16	Reject
1185	8	Taurewa Lodge Trust	1	13	Policy 13.10.16	Reject
364	130	Ian Balfour Mitchell	1	13	Policy 13.10.17	Accept
424	84	Michael and Kristen Gerard	1	13	Policy 13.10.17	Accept
688	127	Judy and John Hellstrom	1	13	Policy 13.10.17	Accept
715	275	Forest & Bird	1	13	Policy 13.10.17	Accept
364	131	Ian Balfour Mitchell	1	13	Policy 13.10.18	Accept
424	85	Michael and Kristen Gerard	1	13	Policy 13.10.18	Accept
688	128	Judy and John Hellstrom	1	13	Policy 13.10.18	Accept
715	276	Forest & Bird	1	13	Policy 13.10.18	Accept

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1185	9	Taurewa Lodge Trust	1	13	Policy 13.10.18	Reject
364	132	Ian Balfour Mitchell	1	13	Policy 13.10.19	Accept
424	86	Michael and Kristen Gerard	1	13	Policy 13.10.19	Accept
610	15	Burkhart Fisheries	1	13	Policy 13.10.19	/Reject
688	129	Judy and John Hellstrom	1	13	Policy 13.10.19	Reject
710	40	The Fishing Industry Submitters	1	13	Policy 13.10.19	Reject
715	277	Forest & Bird	1	13	Policy 13.10.19	Accept
755	1	Hamish Paul Doig	1	13	Policy 13.10.19	Reject
906	18	Legacy Fishing Limited	1	13	Policy 13.10.19	Reject
1038	16	PauaMAC	1	13	Policy 13.10.19	Reject
364	133	Ian Balfour Mitchell	1	13	Policy 13.10.20	Accept
401	145	Aquaculture New Zealand	1	13	Policy 13.10.20	Accept in part
424	87	Michael and Kristen Gerard	1	13	Policy 13.10.20	Accept
426	150	Marine Farming Association	1	13	Policy 13.10.20	Accept in part
688	130	Judy and John Hellstrom	1	13	Policy 13.10.20	Accept
715	278	Forest & Bird	1	13	Policy 13.10.20	Accept
364	134	Ian Balfour Mitchell	1	13	Policy 13.10.21	Accept
424	88	Michael and Kristen Gerard	1	13	Policy 13.10.21	Accept
688	131	Judy and John Hellstrom	1	13	Policy 13.10.21	Reject
715	279	Forest & Bird	1	13	Policy 13.10.21	Accept
755	2	Hamish Paul Doig	1	13	Policy 13.10.21	Reject
364	135	Ian Balfour Mitchell	1	13	Policy 13.10.22	Accept
424	89	Michael and Kristen Gerard	1	13	Policy 13.10.22	Accept
640	7	Douglas and Colleen Robbins	1	13	Policy 13.10.22	Accept in part
688	132	Judy and John Hellstrom	1	13	Policy 13.10.22	Accept
715	280	Forest & Bird	1	13	Policy 13.10.22	Accept
738	10	Glenda Vera Robb	1	13	Policy 13.10.22	Accept in part
755	3	Hamish Paul Doig	1	13	Policy 13.10.22	Reject
845	6	Kenneth R and Sara M Roush	1	13	Policy 13.10.22	Accept in part
935	7	Melva Joy Robb	1	13	Policy 13.10.22	Accept in part
1042	8	Port Underwood Association	1	13	Policy 13.10.22	Accept in part
364	136	Ian Balfour Mitchell	1	13	Policy 13.10.23	Accept
404	34	Eric Jorgensen	1	13	Policy 13.10.23	Accept
424	90	Michael and Kristen Gerard	1	13	Policy 13.10.23	Accept

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688	133	Judy and John Hellstrom	1	13	Policy 13.10.23	Accept
715	281	Forest & Bird	1	13	Policy 13.10.23	Accept
1185	10	Taurewa Lodge Trust	1	13	Policy 13.10.23	Reject
364	137	Ian Balfour Mitchell	1	13	Policy 13.10.24	Accept
424	91	Michael and Kristen Gerard	1	13	Policy 13.10.24	Accept
425	232	Federated Farmers	1	13	Policy 13.10.24	Accept
464	27	Chorus New Zealand limited	1	13	Policy 13.10.24	Accept
688	135	Judy and John Hellstrom	1	13	Policy 13.10.24	Accept
715	282	Forest & Bird	1	13	Policy 13.10.24	Accept
1041	38	Port Clifford Limited	1	13	Policy 13.10.24	Reject
1158	25	Spark	1	13	Policy 13.10.24	Accept in part
364	138	Ian Balfour Mitchell	1	13	Policy 13.10.25	Accept
424	92	Michael and Kristen Gerard	1	13	Policy 13.10.25	Accept
479	111	Department of Conservation	1	13	Policy 13.10.25	Accept
688	136	Judy and John Hellstrom	1	13	Policy 13.10.25	Accept
715	283	Forest & Bird	1	13	Policy 13.10.25	Accept
1041	39	Port Clifford Limited	1	13	Policy 13.10.25	Accept
364	139	Ian Balfour Mitchell	1	13	Policy 13.10.26	Accept
424	93	Michael and Kristen Gerard	1	13	Policy 13.10.26	Accept
688	137	Judy and John Hellstrom	1	13	Policy 13.10.26	Accept
715	284	Forest & Bird	1	13	Policy 13.10.26	Accept
1041	40	Port Clifford Limited	1	13	Policy 13.10.26	Accept
1186	77	Te Atiawa o Te Waka-a-Maui	1	13	Policy 13.10.26	Accept
364	140	Ian Balfour Mitchell	1	13	Policy 13.10.27	Accept
424	94	Michael and Kristen Gerard	1	13	Policy 13.10.27	Accept
425	233	Federated Farmers	1	13	Policy 13.10.27	Accept
640	8	Douglas and Colleen Robbins	1	13	Policy 13.10.27	/Reject
688	138	Judy and John Hellstrom	1	13	Policy 13.10.27	Accept
715	285	Forest & Bird	1	13	Policy 13.10.27	Accept
738	11	Glenda Vera Robb	1	13	Policy 13.10.27	Reject
935	8	Melva Joy Robb	1	13	Policy 13.10.27	Reject
1186	78	Te Atiawa o Te Waka-a-Maui	1	13	Policy 13.10.27	Accept
100	25	East Bay Conservation Society	1	13	Issue 13G	Reject
698	84	EDS	1	13	Issue 13G	Accept in part



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698	88	EDS	1	13	Issue 13G	Reject
715	286	Forest & Bird	1	13	Issue 13G	Reject
715	287	Forest & Bird	1	13	Objective 13.11	Accept
1041	41	Port Clifford Limited	1	13	Objective 13.11	Reject
504	70	QCSRA	1	13	Policy 13.11.1	Accept
715	288	Forest & Bird	1	13	Policy 13.11.1	Reject
1041	42	Port Clifford Limited	1	13	Policy 13.11.1	Reject
433	58	PMNZ	1	13	Policy 13.11.2	Reject
479	112	Department of Conservation	1	13	Policy 13.11.2	Accept
715	289	Forest & Bird	1	13	Policy 13.11.2	Reject
873	47	KiwiRail Holdings Limited	1	13	Policy 13.11.2	Accept
1041	43	Port Clifford Limited	1	13	Policy 13.11.2	Reject
100	35	East Bay Conservation Society	1	13	Policy 13.11.3	Accept
715	290	Forest & Bird	1	13	Policy 13.11.3	Accept
404	36	Eric Jorgensen	1	13	Policy 13.11.4	Accept
424	95	Michael and Kristen Gerard	1	13	Policy 13.11.4	Accept
425	234	Federated Farmers	1	13	Policy 13.11.4	Reject
610	9	Burkhart Fisheries	1	13	Policy 13.11.4	Reject
698	85	EDS	1	13	Policy 13.11.4	Reject
698	86	EDS	1	13	Policy 13.11.4	Accept
710	42	The Fishing Industry Submitters	1	13	Policy 13.11.4	Reject
715	291	Forest & Bird	1	13	Policy 13.11.4	Reject
906	12	Legacy Fishing Limited	1	13	Policy 13.11.4	Reject
1038	11	PauaMAC	1	13	Policy 13.11.4	Reject
1041	44	Port Clifford Limited	1	13	Policy 13.11.4	Reject
715	292	Forest & Bird	1	13	Policy 13.11.5	Accept
716	169	FNHTB	1	13	Policy 13.11.5	Accept in part
479	113	Department of Conservation	1	13	Policy 13.11.6	Accept
715	293	Forest & Bird	1	13	Policy 13.11.6	Accept
433	59	PMNZ	1	13	Policy 13.11.7	Accept
698	87	EDS	1	13	Policy 13.11.7	Reject
715	294	Forest & Bird	1	13	Policy 13.11.7	Accept
715	295	Forest & Bird	1	13	Policy 13.11.8	Accept
364	141	Ian Balfour Mitchell	1	13	Objective 13.12a	Accept

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501	58	Te Runanga O Ngati Kuia	1	13	Objective 13.12a	Reject
715	296	Forest & Bird	1	13	Objective 13.12a	Accept
364	142	Ian Balfour Mitchell	1	13	Objective 13.12b	Accept
715	297	Forest & Bird	1	13	Objective 13.12b	Accept
364	143	Ian Balfour Mitchell	1	13	Policy 13.12.1	Accept
401	146	Aquaculture New Zealand	1	13	Policy 13.12.1	Reject
404	38	Eric Jorgensen	1	13	Policy 13.12.1	Reject
426	151	Marine Farming Association	1	13	Policy 13.12.1	Reject
501	59	Te Runanga O Ngati Kuia	1	13	Policy 13.12.1	Reject
715	298	Forest & Bird	1	13	Policy 13.12.1	Accept
364	144	Ian Balfour Mitchell	1	13	Policy 13.12.2	Accept
401	147	Aquaculture New Zealand	1	13	Policy 13.12.2	Accept
479	114	Department of Conservation	1	13	Policy 13.12.2	Accept
715	299	Forest & Bird	1	13	Policy 13.12.2	Accept
401	139	Aquaculture New Zealand	1	13	Objective 13.13	Accept in part
688	139	Judy and John Hellstrom	1	13	Objective 13.13	Accept
715	300	Forest & Bird	1	13	Objective 13.13	Reject
1198	30	Transpower New Zealand Limited	1	13	Objective 13.13	Accept
364	145	Ian Balfour Mitchell	1	13	Policy 13.13.1	Accept
501	60	Te Runanga O Ngati Kuia	1	13	Policy 13.13.1	Reject
715	301	Forest & Bird	1	13	Policy 13.13.1	Accept
364	146	Ian Balfour Mitchell	1	13	Policy 13.13.2	Accept
715	302	Forest & Bird	1	13	Policy 13.13.2	Accept
1041	45	Port Clifford Limited	1	13	Policy 13.13.2	Reject
364	147	Ian Balfour Mitchell	1	13	Policy 13.13.3	Accept
425	235	Federated Farmers	1	13	Policy 13.13.3	Reject
479	115	Department of Conservation	1	13	Policy 13.13.3	Accept
688	142	Judy and John Hellstrom	1	13	Policy 13.13.3	Accept
715	303	Forest & Bird	1	13	Policy 13.13.3	Reject
364	148	Ian Balfour Mitchell	1	13	Policy 13.13.4	Accept
401	148	Aquaculture New Zealand	1	13	Policy 13.13.4	Accept
426	153	Marine Farming Association	1	13	Policy 13.13.4	Accept
715	304	Forest & Bird	1	13	Policy 13.13.4	Accept
1041	46	Port Clifford Limited	1	13	Policy 13.13.4	Accept

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166	30	Te Runanga o Toa Rangatira	1	13	Policy 13.13.5	Reject
364	149	Ian Balfour Mitchell	1	13	Policy 13.13.5	Accept
425	236	Federated Farmers	1	13	Policy 13.13.5	Accept
715	305	Forest & Bird	1	13	Policy 13.13.5	Reject
166	40	Te Runanga o Toa Rangatira	1	13	Policy 13.13.6	Reject
364	150	Ian Balfour Mitchell	1	13	Policy 13.13.6	Accept
424	96	Michael and Kristen Gerard	1	13	Policy 13.13.6	Accept
425	237	Federated Farmers	1	13	Policy 13.13.6	Accept
501	61	Te Runanga O Ngati Kuia	1	13	Policy 13.13.6	Reject
715	306	Forest & Bird	1	13	Policy 13.13.6	Accept
868	66	KCSRA	1	13	Policy 13.13.6	Reject
364	151	Ian Balfour Mitchell	1	13	Policy 13.13.7	Accept
479	116	Department of Conservation	1	13	Policy 13.13.7	Accept
501	62	Te Runanga O Ngati Kuia	1	13	Policy 13.13.7	Reject
688	140	Judy and John Hellstrom	1	13	Policy 13.13.7	Accept
715	307	Forest & Bird	1	13	Policy 13.13.7	Reject
1041	47	Port Clifford Limited	1	13	Policy 13.13.7	Accept
364	152	Ian Balfour Mitchell	1	13	Policy 13.13.8	Accept
479	117	Department of Conservation	1	13	Policy 13.13.8	Accept
479	118	Department of Conservation	1	13	Policy 13.13.8	Accept
688	141	Judy and John Hellstrom	1	13	Policy 13.13.8	Accept
715	308	Forest & Bird	1	13	Policy 13.13.8	Reject
364	154	Ian Balfour Mitchell	1	13	Policy 13.13.9	Accept
715	309	Forest & Bird	1	13	Policy 13.13.9	Accept
1041	48	Port Clifford Limited	1	13	Policy 13.13.9	Accept
715	310	Forest & Bird	1	13	13.M.17	Reject
110	1	Herb Thomson	1	13	13.M.18	Accept
504	71	QCSRA	1	13	13.M.18	Accept
688	143	Judy and John Hellstrom	1	13	13.M.18	Accept
710	43	The Fishing Industry Submitters	1	13	13.M.18	Reject
715	311	Forest & Bird	1	13	13.M.18	Accept
1038	17	PauaMAC	1	13	13.M.18	Reject
401	117	Aquaculture New Zealand	1	13	Issue 13H	Accept
426	122	Marine Farming Association	1	13	Issue 13H	Accept

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401	123	Aquaculture New Zealand	1	13	Objective 13.14	Accept
426	128	Marine Farming Association	1	13	Objective 13.14	Accept
715	312	Forest & Bird	1	13	Objective 13.14	Accept
790	1	Strait Shipping Limited	1	13	Objective 13.14	Accept
873	48	KiwiRail Holdings Limited	1	13	Objective 13.14	Accept
1041	49	Port Clifford Limited	1	13	Objective 13.14	Accept
401	149	Aquaculture New Zealand	1	13	Policy 13.14.1	Accept in part
426	154	Marine Farming Association	1	13	Policy 13.14.1	Accept in part
433	60	PMNZ	1	13	Policy 13.14.1	Accept in part
715	313	Forest & Bird	1	13	Policy 13.14.1	Accept
868	67	KCSRA	1	13	Policy 13.14.1	Accept
1041	50	Port Clifford Limited	1	13	Policy 13.14.1	Accept in part
401	150	Aquaculture New Zealand	1	13	Policy 13.14.2	Reject
426	155	Marine Farming Association	1	13	Policy 13.14.2	Reject
715	314	Forest & Bird	1	13	Policy 13.14.2	Accept
790	2	Strait Shipping Limited	1	13	Policy 13.14.2	Reject
868	68	KCSRA	1	13	Policy 13.14.2	Accept
873	49	KiwiRail Holdings Limited	1	13	Policy 13.14.2	Reject
990	219	Nelson Forests Limited	1	13	Policy 13.14.2	Reject
1041	51	Port Clifford Limited	1	13	Policy 13.14.2	Reject
401	151	Aquaculture New Zealand	1	13	Policy 13.14.3	Accept
426	156	Marine Farming Association	1	13	Policy 13.14.3	Accept
433	62	PMNZ	1	13	Policy 13.14.3	Accept
715	315	Forest & Bird	1	13	Policy 13.14.3	Accept
868	69	KCSRA	1	13	Policy 13.14.3	Accept
873	50	KiwiRail Holdings Limited	1	13	Policy 13.14.3	Accept
990	220	Nelson Forests Limited	1	13	Policy 13.14.3	Accept
1041	52	Port Clifford Limited	1	13	Policy 13.14.3	Reject
152	21	Clova Bay Residents Association Inc	1	13	Objective 13.15	Accept
401	124	Aquaculture New Zealand	1	13	Objective 13.15	Accept
426	129	Marine Farming Association	1	13	Objective 13.15	Accept
715	316	Forest & Bird	1	13	Objective 13.15	Accept
868	70	KCSRA	1	13	Objective 13.15	Accept
1041	53	Port Clifford Limited	1	13	Objective 13.15	Accept

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152	34	Clova Bay Residents Association Inc	1	13	Policy 13.15.1	Accept
401	152	Aquaculture New Zealand	1	13	Policy 13.15.1	Reject
424	99	Michael and Kristen Gerard	1	13	Policy 13.15.1	Accept
426	157	Marine Farming Association	1	13	Policy 13.15.1	Reject
433	63	PMNZ	1	13	Policy 13.15.1	Accept
715	317	Forest & Bird	1	13	Policy 13.15.1	Accept
868	71	KCSRA	1	13	Policy 13.15.1	Accept
873	51	KiwiRail Holdings Limited	1	13	Policy 13.15.1	Accept
990	221	Nelson Forests Limited	1	13	Policy 13.15.1	Accept
1041	54	Port Clifford Limited	1	13	Policy 13.15.1	Reject
401	153	Aquaculture New Zealand	1	13	Policy 13.15.2	Accept in part
424	100	Michael and Kristen Gerard	1	13	Policy 13.15.2	Accept
426	158	Marine Farming Association	1	13	Policy 13.15.2	Accept in part
433	64	PMNZ	1	13	Policy 13.15.2	Accept
503	2	Yachting NZ	1	13	Policy 13.15.2	Accept in part
715	318	Forest & Bird	1	13	Policy 13.15.2	Accept
868	72	KCSRA	1	13	Policy 13.15.2	Accept in part
1041	55	Port Clifford Limited	1	13	Policy 13.15.2	Reject
152	33	Clova Bay Residents Association Inc	1	13	Policy 13.15.3	Accept
401	154	Aquaculture New Zealand	1	13	Policy 13.15.3	Accept
424	101	Michael and Kristen Gerard	1	13	Policy 13.15.3	Accept
426	159	Marine Farming Association	1	13	Policy 13.15.3	Accept
688	145	Judy and John Hellstrom	1	13	Policy 13.15.3	Accept
715	319	Forest & Bird	1	13	Policy 13.15.3	Accept
868	73	KCSRA	1	13	Policy 13.15.3	Accept
699	5	Pete and Takutai Beech	1	13	Issue 13I	Reject
868	74	KCSRA	1	13	Issue 13I	Reject
424	102	Michael and Kristen Gerard	1	13	Objective 13.16	Reject
688	146	Judy and John Hellstrom	1	13	Objective 13.16	Accept
715	320	Forest & Bird	1	13	Objective 13.16	Accept
868	75	KCSRA	1	13	Objective 13.16	Accept
364	153	Ian Balfour Mitchell	1	13	Policy 13.16.1	Accept
364	155	Ian Balfour Mitchell	1	13	Policy 13.16.1	Accept
424	103	Michael and Kristen Gerard	1	13	Policy 13.16.1	Accept

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688	147	Judy and John Hellstrom	1	13	Policy 13.16.1	Accept
715	321	Forest & Bird	1	13	Policy 13.16.1	Accept
873	53	KiwiRail Holdings Limited	1	13	Policy 13.16.1	Accept
364	156	Ian Balfour Mitchell	1	13	Policy 13.16.2	Accept
424	104	Michael and Kristen Gerard	1	13	Policy 13.16.2	Accept
501	63	Te Runanga O Ngati Kuia	1	13	Policy 13.16.2	Reject
688	148	Judy and John Hellstrom	1	13	Policy 13.16.2	Accept
715	322	Forest & Bird	1	13	Policy 13.16.2	Accept
1186	79	Te Atiawa o Te Waka-a-Maui	1	13	Policy 13.16.2	Accept
364	157	Ian Balfour Mitchell	1	13	Policy 13.16.3	Accept
424	106	Michael and Kristen Gerard	1	13	Policy 13.16.3	Accept
610	10	Burkhart Fisheries	1	13	Policy 13.16.3	Reject
688	149	Judy and John Hellstrom	1	13	Policy 13.16.3	Accept
710	44	The Fishing Industry Submitters	1	13	Policy 13.16.3	Reject
715	323	Forest & Bird	1	13	Policy 13.16.3	Accept
906	13	Legacy Fishing Limited	1	13	Policy 13.16.3	Reject
1038	12	PauaMAC	1	13	Policy 13.16.3	Reject
364	158	Ian Balfour Mitchell	1	13	Policy 13.16.4	Accept
424	105	Michael and Kristen Gerard	1	13	Policy 13.16.4	Accept
688	150	Judy and John Hellstrom	1	13	Policy 13.16.4	Accept
715	324	Forest & Bird	1	13	Policy 13.16.4	Accept
364	159	Ian Balfour Mitchell	1	13	Policy 13.16.5	Accept
424	107	Michael and Kristen Gerard	1	13	Policy 13.16.5	Accept
688	151	Judy and John Hellstrom	1	13	Policy 13.16.5	Accept
715	325	Forest & Bird	1	13	Policy 13.16.5	Accept
873	54	KiwiRail Holdings Limited	1	13	Policy 13.16.5	Accept
364	160	Ian Balfour Mitchell	1	13	Policy 13.16.6	Accept
424	108	Michael and Kristen Gerard	1	13	Policy 13.16.6	Accept
688	152	Judy and John Hellstrom	1	13	Policy 13.16.6	Accept
715	326	Forest & Bird	1	13	Policy 13.16.6	Accept
790	3	Strait Shipping Limited	1	13	Policy 13.16.6	Accept
873	55	KiwiRail Holdings Limited	1	13	Policy 13.16.6	Accept
715	327	Forest & Bird	1	13	13.M.19	Accept
790	4	Strait Shipping Limited	1	13	13.M.19	Reject

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873	56	KiwiRail Holdings Limited	1	13	13.M.19	Accept
504	72	QCSRA	1	13	13.M.20	Accept
688	153	Judy and John Hellstrom	1	13	13.M.20	Accept
715	328	Forest & Bird	1	13	13.M.20	Accept
715	329	Forest & Bird	1	13	13.M.21	Accept
715	330	Forest & Bird	1	13	13.M.22	Accept
504	73	QCSRA	1	13	13.M.23	Reject
688	154	Judy and John Hellstrom	1	13	13.M.23	Accept
715	331	Forest & Bird	1	13	13.M.23	Accept
401	118	Aquaculture New Zealand	1	13	Issue 13J	Accept
426	123	Marine Farming Association	1	13	Issue 13J	Accept
433	65	PMNZ	1	13	Issue 13J	Accept
715	332	Forest & Bird	1	13	Issue 13J	Accept
868	76	KCSRA	1	13	Issue 13J	Accept
401	125	Aquaculture New Zealand	1	13	Objective 13.17	Accept
424	109	Michael and Kristen Gerard	1	13	Objective 13.17	Accept
426	130	Marine Farming Association	1	13	Objective 13.17	Accept
433	66	PMNZ	1	13	Objective 13.17	Accept
715	333	Forest & Bird	1	13	Objective 13.17	Accept
868	77	KCSRA	1	13	Objective 13.17	Accept
1041	56	Port Clifford Limited	1	13	Objective 13.17	Accept
401	155	Aquaculture New Zealand	1	13	Policy 13.17.1	Reject
424	110	Michael and Kristen Gerard	1	13	Policy 13.17.1	Accept
426	160	Marine Farming Association	1	13	Policy 13.17.1	Reject
433	67	PMNZ	1	13	Policy 13.17.1	Accept
715	334	Forest & Bird	1	13	Policy 13.17.1	Accept
990	223	Nelson Forests Limited	1	13	Policy 13.17.1	Accept
1041	57	Port Clifford Limited	1	13	Policy 13.17.1	Accept
401	156	Aquaculture New Zealand	1	13	Policy 13.17.2	Reject
424	111	Michael and Kristen Gerard	1	13	Policy 13.17.2	Accept
426	161	Marine Farming Association	1	13	Policy 13.17.2	Reject
715	335	Forest & Bird	1	13	Policy 13.17.2	Accept
1041	58	Port Clifford Limited	1	13	Policy 13.17.2	Accept
401	157	Aquaculture New Zealand	1	13	Policy 13.17.3	Reject

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424	112	Michael and Kristen Gerard	1	13	Policy 13.17.3	Accept
426	162	Marine Farming Association	1	13	Policy 13.17.3	Reject
433	68	PMNZ	1	13	Policy 13.17.3	Accept in part
715	336	Forest & Bird	1	13	Policy 13.17.3	Accept
749	2	GBC Winstone	1	13	Policy 13.17.3	Reject
873	57	KiwiRail Holdings Limited	1	13	Policy 13.17.3	Accept
990	224	Nelson Forests Limited	1	13	Policy 13.17.3	Accept
1041	59	Port Clifford Limited	1	13	Policy 13.17.3	Reject
401	158	Aquaculture New Zealand	1	13	Policy 13.17.4	Reject
424	113	Michael and Kristen Gerard	1	13	Policy 13.17.4	Accept
426	163	Marine Farming Association	1	13	Policy 13.17.4	Reject
433	69	PMNZ	1	13	Policy 13.17.4	Accept in part
715	337	Forest & Bird	1	13	Policy 13.17.4	Accept
1233	6	Waikawa Boating Club	1	13	Policy 13.17.4	Accept
1246	6	Pelorus Boating Club Incorporated	1	13	Policy 13.17.4	Accept
401	159	Aquaculture New Zealand	1	13	Policy 13.17.5	Reject
424	114	Michael and Kristen Gerard	1	13	Policy 13.17.5	Accept
426	164	Marine Farming Association	1	13	Policy 13.17.5	Reject
433	70	PMNZ	1	13	Policy 13.17.5	Reject
715	338	Forest & Bird	1	13	Policy 13.17.5	Accept
401	160	Aquaculture New Zealand	1	13	Policy 13.17.6	Reject
424	115	Michael and Kristen Gerard	1	13	Policy 13.17.6	Accept
426	165	Marine Farming Association	1	13	Policy 13.17.6	Reject
433	71	PMNZ	1	13	Policy 13.17.6	Reject
715	339	Forest & Bird	1	13	Policy 13.17.6	Accept
1041	60	Port Clifford Limited	1	13	Policy 13.17.6	Reject
401	161	Aquaculture New Zealand	1	13	Policy 13.17.7	Reject
424	116	Michael and Kristen Gerard	1	13	Policy 13.17.7	Accept
426	166	Marine Farming Association	1	13	Policy 13.17.7	Reject
715	340	Forest & Bird	1	13	Policy 13.17.7	Accept
401	162	Aquaculture New Zealand	1	13	Policy 13.17.8	Reject
424	117	Michael and Kristen Gerard	1	13	Policy 13.17.8	Accept
426	167	Marine Farming Association	1	13	Policy 13.17.8	Reject
433	72	PMNZ	1	13	Policy 13.17.8	Accept



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715	341	Forest & Bird	1	13	Policy 13.17.8	Accept
1041	61	Port Clifford Limited	1	13	Policy 13.17.8	Accept
401	163	Aquaculture New Zealand	1	13	Policy 13.17.9	Reject
424	118	Michael and Kristen Gerard	1	13	Policy 13.17.9	Accept
426	168	Marine Farming Association	1	13	Policy 13.17.9	Reject
433	73	PMNZ	1	13	Policy 13.17.9	Reject
715	342	Forest & Bird	1	13	Policy 13.17.9	Accept
401	164	Aquaculture New Zealand	1	13	Policy 13.17.10	Reject
424	119	Michael and Kristen Gerard	1	13	Policy 13.17.10	Accept
426	169	Marine Farming Association	1	13	Policy 13.17.10	Reject
433	74	PMNZ	1	13	Policy 13.17.10	Reject
715	343	Forest & Bird	1	13	Policy 13.17.10	Accept
873	58	KiwiRail Holdings Limited	1	13	Policy 13.17.10	Accept
1041	62	Port Clifford Limited	1	13	Policy 13.17.10	Accept
401	165	Aquaculture New Zealand	1	13	Policy 13.17.11	Reject
424	120	Michael and Kristen Gerard	1	13	Policy 13.17.11	Accept
426	170	Marine Farming Association	1	13	Policy 13.17.11	Reject
433	75	PMNZ	1	13	Policy 13.17.11	Accept
688	155	Judy and John Hellstrom	1	13	Policy 13.17.11	Reject
715	344	Forest & Bird	1	13	Policy 13.17.11	Accept
1041	63	Port Clifford Limited	1	13	Policy 13.17.11	Accept
401	119	Aquaculture New Zealand	1	13	Issue 13K	Reject
426	124	Marine Farming Association	1	13	Issue 13K	Reject
715	345	Forest & Bird	1	13	Issue 13K	Accept
1244	17	Z Energy Limited	1	13	Issue 13K	Accept
280	63	NMDHB	1	13	Objective 13.18	Accept
401	126	Aquaculture New Zealand	1	13	Objective 13.18	Reject
426	131	Marine Farming Association	1	13	Objective 13.18	Reject
715	346	Forest & Bird	1	13	Objective 13.18	Accept
1041	64	Port Clifford Limited	1	13	Objective 13.18	Accept
401	166	Aquaculture New Zealand	1	13	Policy 13.18.1	Reject
426	171	Marine Farming Association	1	13	Policy 13.18.1	Reject
433	76	PMNZ	1	13	Policy 13.18.1	Reject
715	347	Forest & Bird	1	13	Policy 13.18.1	Accept

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1041	65	Port Clifford Limited	1	13	Policy 13.18.1	Accept
401	167	Aquaculture New Zealand	1	13	Policy 13.18.2	Reject
426	172	Marine Farming Association	1	13	Policy 13.18.2	Reject
433	77	PMNZ	1	13	Policy 13.18.2	Reject
501	64	Te Runanga O Ngati Kuia	1	13	Policy 13.18.2	Reject
715	348	Forest & Bird	1	13	Policy 13.18.2	Accept
873	59	KiwiRail Holdings Limited	1	13	Policy 13.18.2	Accept
1041	66	Port Clifford Limited	1	13	Policy 13.18.2	Reject
1186	80	Te Atiawa o Te Waka-a-Maui	1	13	Policy 13.18.2	Reject
280	64	NMDHB	1	13	Policy 13.18.3	Accept in part
401	168	Aquaculture New Zealand	1	13	Policy 13.18.3	Accept
426	173	Marine Farming Association	1	13	Policy 13.18.3	Accept
433	78	PMNZ	1	13	Policy 13.18.3	Accept
715	349	Forest & Bird	1	13	Policy 13.18.3	Accept
873	60	KiwiRail Holdings Limited	1	13	Policy 13.18.3	Accept
990	225	Nelson Forests Limited	1	13	Policy 13.18.3	Accept
1041	67	Port Clifford Limited	1	13	Policy 13.18.3	Accept
1244	18	Z Energy Limited	1	13	Policy 13.18.3	Accept
280	65	NMDHB	1	13	Policy 13.18.4	Reject
401	169	Aquaculture New Zealand	1	13	Policy 13.18.4	Accept in part
426	174	Marine Farming Association	1	13	Policy 13.18.4	Accept in part
433	79	PMNZ	1	13	Policy 13.18.4	Reject
715	350	Forest & Bird	1	13	Policy 13.18.4	Accept
1041	68	Port Clifford Limited	1	13	Policy 13.18.4	Accept
401	170	Aquaculture New Zealand	1	13	Policy 13.18.5	Accept
426	175	Marine Farming Association	1	13	Policy 13.18.5	Accept
433	80	PMNZ	1	13	Policy 13.18.5	Reject
501	65	Te Runanga O Ngati Kuia	1	13	Policy 13.18.5	Reject
715	351	Forest & Bird	1	13	Policy 13.18.5	Accept
1041	69	Port Clifford Limited	1	13	Policy 13.18.5	Reject
433	81	PMNZ	1	13	Policy 13.18.6	Accept
715	352	Forest & Bird	1	13	Policy 13.18.6	Accept
1041	70	Port Clifford Limited	1	13	Policy 13.18.6	Accept
401	171	Aquaculture New Zealand	1	13	Policy 13.18.7	Reject

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426	176	Marine Farming Association	1	13	Policy 13.18.7	Reject
433	82	PMNZ	1	13	Policy 13.18.7	Accept
501	66	Te Runanga O Ngati Kuia	1	13	Policy 13.18.7	Accept in part
610	11	Burkhart Fisheries	1	13	Policy 13.18.7	Reject
710	45	The Fishing Industry Submitters	1	13	Policy 13.18.7	Reject
715	353	Forest & Bird	1	13	Policy 13.18.7	Accept
906	14	Legacy Fishing Limited	1	13	Policy 13.18.7	Reject
1038	13	PauaMAC	1	13	Policy 13.18.7	Reject
1041	71	Port Clifford Limited	1	13	Policy 13.18.7	Accept
1186	81	Te Atiawa o Te Waka-a-Maui	1	13	Policy 13.18.7	Accept in part
715	354	Forest & Bird	1	13	Policy 13.18.8	Accept
1041	72	Port Clifford Limited	1	13	Policy 13.18.8	Accept
715	355	Forest & Bird	1	13	13.M.24	Accept
715	356	Forest & Bird	1	13	13.M.25	Accept
715	357	Forest & Bird	1	13	13.M.26	Accept
1186	82	Te Atiawa o Te Waka-a-Maui	1	13	13.M.26	Accept
715	358	Forest & Bird	1	13	13.M.27	Accept
715	359	Forest & Bird	1	13	Issue 13L	Accept
1041	73	Port Clifford Limited	1	13	Issue 13L	Accept
355	5	Dominion Salt Limited	1	13	Objective 13.19	Reject
355	1	Dominion Salt Limited	1	13	Policy 13.19.1	Accept
355	2	Dominion Salt Limited	1	13	Policy 13.19.2	Accept
355	3	Dominion Salt Limited	1	13	Policy 13.19.3	Reject
380	10	Bruce Lawrence Pattie	1	13	Policy 13.19.3	Accept
355	4	Dominion Salt Limited	1	13	Policy 13.19.4	Accept
688	167	Judy and John Hellstrom	1	13	13.AER.12	Accept
91	137	Marlborough District Council	1	13	13.AER.13	Accept
688	168	Judy and John Hellstrom	1	13	13.AER.13	Accept
688	169	Judy and John Hellstrom	1	13	13.AER.14	Accept
715	361	Forest & Bird	1	13	13.AER.14	Accept in part
688	170	Judy and John Hellstrom	1	13	13.AER.15	Accept
688	172	Judy and John Hellstrom	1	13	13.AER.17	Accept
404	42	Eric Jorgensen	1	13	13.AER.16	Reject
688	171	Judy and John Hellstrom	1	13	13.AER.16	Reject

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710	46	The Fishing Industry Submitters	1	13	13.AER.16	Accept in part
1002	199	New Zealand Transport Agency	2	13	13.	Accept
1186	31	Te Atiawa o Te Waka-a-Maui	2	13	13.	Accept in part
401	188	Aquaculture New Zealand	2	13	13.1.	Accept
426	197	Marine Farming Association	2	13	13.1.	Accept
433	98	PMNZ	2	13	13.1.	Reject
433	99	PMNZ	2	13	13.1.	Reject
433	127	PMNZ	2	13	13.1.	Accept/Accept in part/Reject
749	1	GBC Winstone	2	13	13.1.	Reject
1041	74	Port Clifford Limited	2	13	13.1.	Accept
433	100	PMNZ	2	13	13.1.1.	Accept in part
873	141	KiwiRail Holdings Limited	2	13	13.1.1.	Accept
873	142	KiwiRail Holdings Limited	2	13	13.1.2.	Accept
433	101	PMNZ	2	13	13.1.3.	Accept
873	143	KiwiRail Holdings Limited	2	13	13.1.3.	Accept
433	102	PMNZ	2	13	13.1.4.	Reject
873	145	KiwiRail Holdings Limited	2	13	13.1.5.	Accept
873	146	KiwiRail Holdings Limited	2	13	13.1.6.	Accept
873	148	KiwiRail Holdings Limited	2	13	13.1.7.	Accept
479	239	Department of Conservation	2	13	13.1.11.	Accept
433	109	PMNZ	2	13	13.3.11.1.	Accept
433	103	PMNZ	2	13	13.1.15.	Reject
873	149	KiwiRail Holdings Limited	2	13	13.1.15.	Accept
464	62	Chorus New Zealand limited	2	13	13.1.19.	Reject
1158	54	Spark	2	13	13.1.19.	Reject
873	150	KiwiRail Holdings Limited	2	13	13.1.21.	Accept
433	108	PMNZ	2	13	13.1.22.	Accept
873	153	KiwiRail Holdings Limited	2	13	13.1.24.	Accept
873	155	KiwiRail Holdings Limited	2	13	13.1.33.	Accept
993	65	NZFSC	2	13	13.1.33.	Accept
433	110	PMNZ	2	13	13.1.45.	Accept
1186	158	Te Atiawa o Te Waka-a-Maui	2	13	13.2.	Reject
873	158	KiwiRail Holdings Limited	2	13	13.2.1.	Accept

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1041	75	Port Clifford Limited	2	13	13.2.1.	Accept
433	111	PMNZ	2	13	13.2.1.2.	Reject
433	112	PMNZ	2	13	13.2.1.4.	Reject
433	118	PMNZ	2	13	13.2.6.3.	Reject
1041	76	Port Clifford Limited	2	13	13.3.	Accept
433	120	PMNZ	2	13	13.3.1.	Reject
873	144	KiwiRail Holdings Limited	2	13	13.3.1.	Accept
873	147	KiwiRail Holdings Limited	2	13	13.3.2.	Accept
1140	55	Sanford Limited	2	13	13.3.2.	Reject
401	193	Aquaculture New Zealand	2	13	13.3.4.	Accept
479	240	Department of Conservation	2	13	13.3.4.	Accept
973	3	Ministry for Primary Industries	2	13	13.3.4.	Accept
426	199	Marine Farming Association	2	13	13.3.4.1.	Reject
433	121	PMNZ	2	13	13.3.4.1.	Accept in part
401	194	Aquaculture New Zealand	2	13	13.3.4.2.	Accept
426	201	Marine Farming Association	2	13	13.3.4.2.	Accept
1140	57	Sanford Limited	2	13	13.3.4.2.	Accept
873	160	KiwiRail Holdings Limited	2	13	13.3.6.	Reject
1186	159	Te Atiawa o Te Waka-a-Maui	2	13	13.3.6.	Reject
464	66	Chorus New Zealand limited	2	13	13.3.9.2.	Reject
1158	58	Spark	2	13	13.3.9.2.	Reject
401	195	Aquaculture New Zealand	2	13	13.3.10.	Reject
426	202	Marine Farming Association	2	13	13.3.10.	Reject
401	196	Aquaculture New Zealand	2	13	13.3.10.1.	Reject
401	197	Aquaculture New Zealand	2	13	13.3.10.5.	Reject
433	122	PMNZ	2	13	13.3.13.	Accept
873	154	KiwiRail Holdings Limited	2	13	13.3.13.	Accept
1186	161	Te Atiawa o Te Waka-a-Maui	2	13	13.3.13.	Reject
433	123	PMNZ	2	13	13.3.14.	Accept
1186	162	Te Atiawa o Te Waka-a-Maui	2	13	13.3.15.	Reject
307	7	Tasman District Council	2	13	13.3.16.	Reject
994	23	New Zealand Fish Passage Advisory Group	2	13	13.3.16.7.	Accept
280	42	NMDHB	2	13	13.3.18.	Reject
433	124	PMNZ	2	13	13.3.18.1.	Accept

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401	192	Aquaculture New Zealand	2	13	13.3.21.	Reject
426	200	Marine Farming Association	2	13	13.3.21.	Reject
1140	60	Sanford Limited	2	13	13.3.21.	Reject
873	156	KiwiRail Holdings Limited	2	13	13.3.22.	Accept
993	67	NZFSC	2	13	13.3.22.	Accept
433	128	PMNZ	2	13	13.4.1.	Reject
433	130	PMNZ	2	13	13.4.1.	Reject
1041	77	Port Clifford Limited	2	13	13.4.1.	Accept
1186	166	Te Atiawa o Te Waka-a-Maui	2	13	13.4.1.	Accept
433	129	PMNZ	2	13	13.4.1.1	Reject
1041	78	Port Clifford Limited	2	13	13.4.2.	Accept
1186	167	Te Atiawa o Te Waka-a-Maui	2	13	13.4.2.	Accept
433	131	PMNZ	2	13	13.4.2.1	Accept
433	132	PMNZ	2	13	13.4.3.	Reject
433	135	PMNZ	2	13	13.4.3.	Reject
1041	79	Port Clifford Limited	2	13	13.4.3.	Accept
1186	168	Te Atiawa o Te Waka-a-Maui	2	13	13.4.3.	Accept
433	133	PMNZ	2	13	13.4.3.1	Accept
433	134	PMNZ	2	13	13.4.3.2	Reject
401	198	Aquaculture New Zealand	2	13	13.4.4.	Accept
426	203	Marine Farming Association	2	13	13.4.4.	Accept
433	136	PMNZ	2	13	13.4.4.	Accept
1140	63	Sanford Limited	2	13	13.4.4.	Reject
1041	80	Port Clifford Limited	2	13	13.4.5.	Accept
1186	169	Te Atiawa o Te Waka-a-Maui	2	13	13.4.5.	Accept
433	137	PMNZ	2	13	13.4.5.7	Reject
433	138	PMNZ	2	13	13.4.5.9	Accept
433	139	PMNZ	2	13	13.5.	Reject
433	105	PMNZ	2	13	13.5.1.	Accept in part
433	106	PMNZ	2	13	13.5.2.	Accept in part
1041	81	Port Clifford Limited	2	13	13.5.2.	Accept
401	202	Aquaculture New Zealand	2	13	13.6.	Accept
426	207	Marine Farming Association	2	13	13.6.	Accept
426	204	Marine Farming Association	2	13	13.6.4.	Reject

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401	199	Aquaculture New Zealand	2	13	13.6.4.	Reject
503	8	Yachting NZ	2	13	13.6.4.	Reject
1140	34	Sanford Limited	2	13	13.6.4.	Reject
401	200	Aquaculture New Zealand	2	13	13.6.5.	Reject
426	205	Marine Farming Association	2	13	13.6.5.	Reject
503	9	Yachting NZ	2	13	13.6.5.	Reject
1140	35	Sanford Limited	2	13	13.6.5.	Reject
401	201	Aquaculture New Zealand	2	13	13.6.6.	Accept
426	206	Marine Farming Association	2	13	13.6.6.	Accept
503	10	Yachting NZ	2	13	13.6.6.	Reject
1140	36	Sanford Limited	2	13	13.6.6.	Reject
433	141	PMNZ	2	13	13.6.7.	Accept in part
1002	200	New Zealand Transport Agency	2	14	14.	Accept
1186	32	Te Atiawa o Te Waka-a-Maui	2	14	14.	Accept in part
401	203	Aquaculture New Zealand	2	14	14.1.	Accept
426	208	Marine Farming Association	2	14	14.1.	Accept
433	145	PMNZ	2	14	14.1.	Reject
433	147	PMNZ	2	14	14.1.	Reject
433	148	PMNZ	2	14	14.1.	Reject
925	12	Michelle Gail Harris	2	14	14.1.	Accept
1140	64	Sanford Limited	2	14	14.1.	Reject
433	143	PMNZ	2	14	14.1.1.	Accept
433	144	PMNZ	2	14	14.1.3.	Accept
464	63	Chorus New Zealand limited	2	14	14.1.9.	Accept
1158	55	Spark	2	14	14.1.9.	Accept
993	69	NZFSC	2	14	14.1.17.	Accept
433	149	PMNZ	2	14	14.2.1.	Accept
426	210	Marine Farming Association	2	14	14.3.1.	Reject
1140	68	Sanford Limited	2	14	14.3.1.	Reject
401	205	Aquaculture New Zealand	2	14	14.3.1.2.	Reject
464	67	Chorus New Zealand limited	2	14	14.3.4.2.	Reject
1158	59	Spark	2	14	14.3.4.2.	Reject
426	211	Marine Farming Association	2	14	14.3.5.	Reject
401	206	Aquaculture New Zealand	2	14	14.3.5.1.	Reject

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401	207	Aquaculture New Zealand	2	14	14.3.5.2.	Reject
401	208	Aquaculture New Zealand	2	14	14.3.5.5.	Reject
401	209	Aquaculture New Zealand	2	14	14.3.11.	Reject
426	212	Marine Farming Association	2	14	14.3.11.	Reject
1140	61	Sanford Limited	2	14	14.3.11.	Reject
993	70	NZFSC	2	14	14.3.12.	Accept
433	153	PMNZ	2	14	14.4.	Reject
401	212	Aquaculture New Zealand	2	14	14.5.	Accept
426	215	Marine Farming Association	2	14	14.5.	Accept
401	210	Aquaculture New Zealand	2	14	14.5.4.	Reject
426	213	Marine Farming Association	2	14	14.5.4.	Reject
503	11	Yachting NZ	2	14	14.5.4.	Reject
1140	38	Sanford Limited	2	14	14.5.4.	Reject
401	211	Aquaculture New Zealand	2	14	14.5.5.	Reject
426	214	Marine Farming Association	2	14	14.5.5.	Reject
503	12	Yachting NZ	2	14	14.5.5.	Reject
1140	39	Sanford Limited	2	14	14.5.5.	Reject
503	13	Yachting NZ	2	14	14.5.6.	Reject
1002	201	New Zealand Transport Agency	2	15	15.	Accept
1186	33	Te Atiawa o Te Waka-a-Maui	2	15	15.	Accept in part
401	213	Aquaculture New Zealand	2	15	15.1.	Accept
426	216	Marine Farming Association	2	15	15.1.	Accept
433	158	PMNZ	2	15	15.1.	Reject
433	154	PMNZ	2	15	15.1.1.	Accept
433	156	PMNZ	2	15	15.1.3.	Reject
479	241	Department of Conservation	2	15	15.1.7.	Accept
433	155	PMNZ	2	15	15.1.12.	Reject
464	64	Chorus New Zealand limited	2	15	15.1.16.	Accept
1158	56	Spark	2	15	15.1.16.	Accept
401	214	Aquaculture New Zealand	2	15	15.1.21.	Reject
426	217	Marine Farming Association	2	15	15.1.21.	Reject
433	157	PMNZ	2	15	15.1.23.	Accept
1140	62	Sanford Limited	2	15	15.1.29.	Reject
993	71	NZFSC	2	15	15.1.30.	Accept



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1186	173	Te Atiawa o Te Waka-a-Maui	2	15	15.2.	Reject
1284	5	PMNZ	2	15	15.2.	Accept
433	159	PMNZ	2	15	15.2.1.	Reject
1140	69	Sanford Limited	2	15	15.2.1.	Reject
433	162	PMNZ	2	15	15.2.5.3.	Reject
433	171	PMNZ	2	15	15.3.	Reject
457	46	Accolade Wines New Zealand Limited	2	15	15.3.	Reject
433	163	PMNZ	2	15	15.3.2.1.	Accept
479	242	Department of Conservation	2	15	15.3.3.	Accept
973	4	Ministry for Primary Industries	2	15	15.3.3.	Accept in part
433	164	PMNZ	2	15	15.3.3.1.	Accept in part
433	178	PMNZ	2	15	15.3.3.3.	Accept
433	165	PMNZ	2	15	15.3.4.	Reject
433	166	PMNZ	2	15	15.3.4.1.	Accept
433	167	PMNZ	2	15	15.3.4.2.	Reject
433	168	PMNZ	2	15	15.3.5.2.	Reject
464	68	Chorus New Zealand limited	2	15	15.3.8.2.	Reject
1158	60	Spark	2	15	15.3.8.2.	Reject
426	219	Marine Farming Association	2	15	15.3.9.	Reject
401	217	Aquaculture New Zealand	2	15	15.3.9.1.	Reject
401	218	Aquaculture New Zealand	2	15	15.3.9.2.	Reject
401	219	Aquaculture New Zealand	2	15	15.3.9.5.	Reject
433	169	PMNZ	2	15	15.3.13.	Reject
1186	175	Te Atiawa o Te Waka-a-Maui	2	15	15.3.13.	Reject
307	6	Tasman District Council	2	15	15.3.14.	Reject
1186	176	Te Atiawa o Te Waka-a-Maui	2	15	15.3.14.	Reject
994	24	New Zealand Fish Passage Advisory Group	2	15	15.3.14.7.	Reject
994	25	New Zealand Fish Passage Advisory Group	2	15	15.3.15.7.	Reject
426	220	Marine Farming Association	2	15	15.3.19.	Reject
401	220	Aquaculture New Zealand	2	15	15.3.19.1	Accept
993	73	NZFSC	2	15	15.3.20.	Reject
433	180	PMNZ	2	15	15.5.	Accept/Accept in part/Reject
433	174	PMNZ	2	15	15.5.1.	Accept

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1186	179	Te Atiawa o Te Waka-a-Maui	2	15	15.5.1.	Reject
433	172	PMNZ	2	15	15.5.1.1.	Reject
433	173	PMNZ	2	15	15.5.1.2.	Reject
433	175	PMNZ	2	15	15.5.2.	Reject
433	176	PMNZ	2	15	15.5.2.	Accept
1186	180	Te Atiawa o Te Waka-a-Maui	2	15	15.5.2.	Reject
433	179	PMNZ	2	15	15.5.3.	Accept
1186	181	Te Atiawa o Te Waka-a-Maui	2	15	15.5.3.	Accept
433	177	PMNZ	2	15	15.5.3.1.	Accept
91	128	Marlborough District Council	2	15	15.5.4.1.	Reject
433	181	PMNZ	2	15	15.6.	Accept
401	221	Aquaculture New Zealand	2	15	15.7.	Accept
426	221	Marine Farming Association	2	15	15.7.	Accept
960	22	Marlborough Berth and Mooring Association	2	15	15.7.	Reject
401	222	Aquaculture New Zealand	2	15	15.7.4.	Reject
426	222	Marine Farming Association	2	15	15.7.4.	Reject
503	14	Yachting NZ	2	15	15.7.4.	Reject
960	20	Marlborough Berth and Mooring Association	2	15	15.7.4.	Reject
1246	14	Pelorus Boating Club Incorporated	2	15	15.7.4.	Reject
401	223	Aquaculture New Zealand	2	15	15.7.5.	Reject
426	223	Marine Farming Association	2	15	15.7.5.	Reject
503	15	Yachting NZ	2	15	15.7.5.	Reject
960	21	Marlborough Berth and Mooring Association	2	15	15.7.5.	Reject
1246	15	Pelorus Boating Club Incorporated	2	15	15.7.5.	Reject
503	16	Yachting NZ	2	15	15.7.6.	Reject
960	23	Marlborough Berth and Mooring Association	2	15	15.7.6.	Reject
1246	16	Pelorus Boating Club Incorporated	2	15	15.7.6.	Reject
91	155	Marlborough District Council	2	16		Accept
404	48	Eric Jorgensen	2	16	16.	Accept in part
425	710	Federated Farmers	2	16	16.	Accept
425	711	Federated Farmers	2	16	16.	Accept
686	6	Ernest and Catherine Henshaw	2	16	16.	Accept
1002	203	New Zealand Transport Agency	2	16	16.	Reject
1002	217	New Zealand Transport Agency	2	16	16.	Reject

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1186	34	Te Atiawa o Te Waka-a-Maui	2	16	16.	Reject
233	2	Totaranui Limited	2	16	16.1.	Accept in part
233	3	Totaranui Limited	2	16	16.1.	Accept in part
233	28	Totaranui Limited	2	16	16.1.	Accept in part
236	1	NIWA Nelson	2	16	16.1.	Reject
401	224	Aquaculture New Zealand	2	16	16.1.	Accept
401	225	Aquaculture New Zealand	2	16	16.1.	Reject
426	224	Marine Farming Association	2	16	16.1.	Accept
426	225	Marine Farming Association	2	16	16.1.	Reject
715	421	Forest & Bird	2	16	16.1.	Accept
960	15	Marlborough Berth and Mooring Association	2	16	16.1.	Reject
1023	9	P Rene	2	16	16.1.	Reject
1186	182	Te Atiawa o Te Waka-a-Maui	2	16	16.1.	Reject
1233	10	Waikawa Boating Club	2	16	16.1.	Reject
1246	10	Pelorus Boating Club Incorporated	2	16	16.1.	Reject
433	195	PMNZ	2	16	16.1.1.	Accept
504	86	QCSRA	2	16	16.1.1.	Accept in part
873	161	KiwiRail Holdings Limited	2	16	16.1.1.	Accept
995	39	New Zealand Forest Products Holdings Limited	2	16	16.1.1.	Accept
995	40	New Zealand Forest Products Holdings Limited	2	16	16.1.2.	Accept
995	41	New Zealand Forest Products Holdings Limited	2	16	16.1.3.	Accept
433	198	PMNZ	2	16	16.1.4.	Accept
504	88	QCSRA	2	16	16.1.6.	Accept
716	191	FNHTB	2	16	16.1.8.	Reject
464	65	Chorus New Zealand limited	2	16	16.1.11.	Accept
1158	57	Spark	2	16	16.1.11.	Accept
716	193	FNHTB	2	16	16.1.12.	Reject
424	181	Michael and Kristen Gerard	2	16	16.1.13.	Accept
424	182	Michael and Kristen Gerard	2	16	16.1.14.	Accept
1186	185	Te Atiawa o Te Waka-a-Maui	2	16	16.1.14.	Reject
1186	186	Te Atiawa o Te Waka-a-Maui	2	16	16.1.15.	Reject
425	819	Federated Farmers	2	16	16.1.16.	Reject
1002	204	New Zealand Transport Agency	2	16	16.1.16.	Accept
716	192	FNHTB	2	16	16.1.17.	Reject

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993	75	NZFSC	2	16	16.1.19.	Accept
1002	208	New Zealand Transport Agency	2	16	16.1.23.	Reject
845	15	Kenneth R and Sara M Roush	2	16	16.2.	Reject
1042	17	Port Underwood Association	2	16	16.2.	Reject
1186	183	Te Atiawa o Te Waka-a-Maui	2	16	16.2.	Reject
426	226	Marine Farming Association	2	16	16.2.1.	Reject
479	243	Department of Conservation	2	16	16.2.1.	Accept
1140	42	Sanford Limited	2	16	16.2.1.	Accept
401	226	Aquaculture New Zealand	2	16	16.2.1.4.	Reject
425	706	Federated Farmers	2	16	16.2.2.	Reject
1002	209	New Zealand Transport Agency	2	16	16.2.2.2.	Reject
425	813	Federated Farmers	2	16	16.2.2.4.	Reject
425	815	Federated Farmers	2	16	16.2.2.5.	Reject
504	87	QCSRA	2	16	16.3.1.	Accept
699	4	Pete and Takutai Beech	2	16	16.3.1.	Reject
873	162	KiwiRail Holdings Limited	2	16	16.3.1.	Accept
992	67	New Zealand Defence Force	2	16	16.3.1.	Reject
433	196	PMNZ	2	16	16.3.1.1.	Accept
433	197	PMNZ	2	16	16.3.1.2.	Accept
426	228	Marine Farming Association	2	16	16.3.2.	Reject
401	229	Aquaculture New Zealand	2	16	16.3.2.1.	Reject
443	3	Jones, Annabel Farquar and Goldie, Neville Charles Clarke, Richard Spencer	2	16	16.3.2.1.	Reject
433	199	PMNZ	2	16	16.3.3.	Accept
1002	205	New Zealand Transport Agency	2	16	16.3.5.	Accept
1233	11	Waikawa Boating Club	2	16	16.3.6.1.	Reject
1233	12	Waikawa Boating Club	2	16	16.3.6.2.	Reject
464	69	Chorus New Zealand limited	2	16	16.3.8.2.	Reject
1158	61	Spark	2	16	16.3.8.2.	Reject
401	230	Aquaculture New Zealand	2	16	16.3.9.	Reject
426	229	Marine Farming Association	2	16	16.3.9.	Reject
79	1	Jonathan Gardner	2	16	16.3.9.1.	Reject
401	231	Aquaculture New Zealand	2	16	16.3.9.1.	Reject
404	49	Eric Jorgensen	2	16	16.3.9.1.	Reject

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613	1	Cawthron Institute	2	16	16.3.9.1.	Accept in part
1140	51	Sanford Limited	2	16	16.3.9.1.	Accept
401	232	Aquaculture New Zealand	2	16	16.3.9.2.	Reject
401	233	Aquaculture New Zealand	2	16	16.3.9.5.	Reject
424	183	Michael and Kristen Gerard	2	16	16.3.10.	Accept
425	817	Federated Farmers	2	16	16.3.10.	Reject
1186	184	Te Atiawa o Te Waka-a-Maui	2	16	16.3.10.	Reject
425	707	Federated Farmers	2	16	16.3.10.1.	Reject
424	184	Michael and Kristen Gerard	2	16	16.3.11.	Accept
425	818	Federated Farmers	2	16	16.3.11.	Reject
425	708	Federated Farmers	2	16	16.3.11.1.	Reject
1002	206	New Zealand Transport Agency	2	16	16.3.11.1.	Reject
1002	207	New Zealand Transport Agency	2	16	16.3.11.7.	Reject
716	195	FNHTB	2	16	16.3.12.	Reject
1186	187	Te Atiawa o Te Waka-a-Maui	2	16	16.3.12.	Reject
424	185	Michael and Kristen Gerard	2	16	16.3.13.	Accept
425	709	Federated Farmers	2	16	16.3.13.2.	Reject
1186	188	Te Atiawa o Te Waka-a-Maui	2	16	16.3.14.3.	Accept in part
233	1	Totaranui Limited	2	16	16.4.	Reject
873	163	KiwiRail Holdings Limited	2	16	16.4.1.	Reject
504	89	QCSRA	2	16	16.4.2.	Accept
873	164	KiwiRail Holdings Limited	2	16	16.4.2.	Reject
790	5	Strait Shipping Limited	2	16	16.4.2.9.	Reject
790	6	Strait Shipping Limited	2	16	16.4.2.17.	Reject
790	7	Strait Shipping Limited	2	16	16.4.2.19.	Reject
433	200	PMNZ	2	16	16.5.1.	Accept
1140	53	Sanford Limited	2	16	16.5.1.	Reject
995	42	New Zealand Forest Products Holdings Limited	2	16	16.6.1.	Accept
433	201	PMNZ	2	16	16.6.2.	Accept
443	1	Jones, Annabel Farquar and Goldie, Neville Charles Clarke, Richard Spencer	2	16	16.6.2.	Reject
443	2	Jones, Annabel Farquar and Goldie, Neville Charles Clarke, Richard Spencer	2	16	16.6.3.	Reject
995	43	New Zealand Forest Products Holdings Limited	2	16	16.6.6.	Accept

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79	2	Jonathan Gardner	2	16	16.6.7.	Reject
1002	210	New Zealand Transport Agency	2	16	16.6.7.	Accept in part
433	202	PMNZ	2	16	16.7.	Reject
960	18	Marlborough Berth and Mooring Association	2	16	16.7.	Reject
1190	34	The Bay of Many Coves Residents and Ratepayers Association Incorporated	2	16	16.7.	Accept in part
20	1	Chris Duckworth	2	16	16.7.2.	Reject
23	1	James Turner	2	16	16.7.2.	Reject
27	1	Joseph Maurice Carter	2	16	16.7.2.	Reject
37	1	David Kennett	2	16	16.7.2.	Reject
38	1	Nicky Jenkins	2	16	16.7.2.	Reject
47	1	Sue Parkinson	2	16	16.7.2.	Reject
49	1	Grant Hutchings	2	16	16.7.2.	Reject
50	1	Michael Rattray	2	16	16.7.2.	Reject
51	1	Kerry Kirk	2	16	16.7.2.	Reject
53	1	Neil Middleton	2	16	16.7.2.	Reject
54	1	John McCully	2	16	16.7.2.	Reject
55	1	Kevin Henderson	2	16	16.7.2.	Reject
65	1	Rick Gordon	2	16	16.7.2.	Reject
65	2	Rick Gordon	2	16	16.7.2.	Reject
67	1	Anne Marett	2	16	16.7.2.	Reject
68	1	Belinda Moss	2	16	16.7.2.	Reject
70	1	Mark Radnor	2	16	16.7.2.	Reject
71	1	John Jackson	2	16	16.7.2.	Reject
72	1	Mandy Carpenter	2	16	16.7.2.	Reject
76	1	Helen Ashworth	2	16	16.7.2.	Reject
77	1	Rob Grigg	2	16	16.7.2.	Reject
78	1	Chris Douglas	2	16	16.7.2.	Reject
80	1	Brian Hobbs	2	16	16.7.2.	Reject
81	1	Paul Lee	2	16	16.7.2.	Reject
82	1	Sebastian Stapleton	2	16	16.7.2.	Reject
97	2	Jonathan Duffy	2	16	16.7.2.	Reject
101	1	Viv Butcher	2	16	16.7.2.	Reject
102	1	Donald Thomson	2	16	16.7.2.	Reject

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106	1	Val Holmes	2	16	16.7.2.	Reject
108	1	Ian Oliver	2	16	16.7.2.	Reject
127	1	Mark Altoft	2	16	16.7.2.	Reject
138	1	Peter Broughton	2	16	16.7.2.	Reject
142	2	Wayne Norwood	2	16	16.7.2.	Reject
159	1	Richard Middleton	2	16	16.7.2.	Reject
170	1	Thomas van der Burgh	2	16	16.7.2.	Reject
178	1	Ralph Rosthorn	2	16	16.7.2.	Reject
231	5	Jono Wilson	2	16	16.7.2.	Reject
235	1	Chris Collie-Holmes	2	16	16.7.2.	Reject
242	1	Doug Smith	2	16	16.7.2.	Reject
248	1	David Colsell	2	16	16.7.2.	Reject
276	1	Ian Gardiner	2	16	16.7.2.	Reject
332	3	Robert John Culbert	2	16	16.7.2.	Reject
401	237	Aquaculture New Zealand	2	16	16.7.2.	Accept
404	50	Eric Jorgensen	2	16	16.7.2.	Accept
424	186	Michael and Kristen Gerard	2	16	16.7.2.	Reject
426	233	Marine Farming Association	2	16	16.7.2.	Reject
494	1	Evaon Watkins	2	16	16.7.2.	Reject
495	1	Bruce Watkins	2	16	16.7.2.	Reject
503	17	Yachting NZ	2	16	16.7.2.	Reject
504	90	QCSRA	2	16	16.7.2.	Accept
523	1	Alan Dodgson	2	16	16.7.2.	Reject
526	1	A G N Anderson	2	16	16.7.2.	Reject
536	1	Andrew Simmonds	2	16	16.7.2.	Reject
578	50	Pinder Family Trust	2	16	16.7.2.	Accept in part
580	1	Waikawa Boating Club	2	16	16.7.2.	Reject
586	1	Christopher Fenton McCallum	2	16	16.7.2.	Reject
644	1	Diana Elizabeth Harper	2	16	16.7.2.	Reject
651	1	David James Nelson	2	16	16.7.2.	Reject
653	1	David Edward Johnstone	2	16	16.7.2.	Reject
675	1	Donald Wright	2	16	16.7.2.	Reject
695	1	Elias I Wilson	2	16	16.7.2.	Reject
706	1	Forrest McDougall	2	16	16.7.2.	Reject

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720	1	Gordon Berry	2	16	16.7.2.	Reject
732	1	Graeme Kenneth Riach	2	16	16.7.2.	Reject
739	1	Graham Bruce Robertson	2	16	16.7.2.	Reject
752	50	Guardians of the Sounds	2	16	16.7.2.	Accept in part
774	1	Ian Murray and Elizabeth Ann MacDonald	2	16	16.7.2.	Reject
786	1	Waikawa Boating Club	2	16	16.7.2.	Reject
789	1	John Nicholas Burton	2	16	16.7.2.	Reject
795	1	Jeff Cook	2	16	16.7.2.	Reject
813	1	John Leon Aldridge	2	16	16.7.2.	Reject
840	1	John Winlove	2	16	16.7.2.	Reject
849	1	Ken Cookson	2	16	16.7.2.	Reject
864	1	Katie Strader	2	16	16.7.2.	Reject
875	1	Liz Ann Nelson	2	16	16.7.2.	Reject
876	1	Leonard Arthur Woodman	2	16	16.7.2.	Reject
933	1	Michael John Dryden	2	16	16.7.2.	Reject
938	1	Mark Langdon Robertson	2	16	16.7.2.	Reject
947	1	Melvyn Ronald Davies	2	16	16.7.2.	Reject
960	16	Marlborough Berth and Mooring Association	2	16	16.7.2.	Reject
980	1	Nigel Edward Ackroyd	2	16	16.7.2.	Reject
1020	1	Peter M Thorne George	2	16	16.7.2.	Reject
1033	1	Pacific Eagle Charters Limited	2	16	16.7.2.	Reject
1048	1	Robyn Anne Barclay	2	16	16.7.2.	Reject
1071	1	Roland McGregor Post	2	16	16.7.2.	Reject
1105	1	Simon Bell	2	16	16.7.2.	Reject
1117	1	Steven Guy La Plante	2	16	16.7.2.	Reject
1140	40	Sanford Limited	2	16	16.7.2.	Accept in part
1146	50	Sea Shepherd New Zealand	2	16	16.7.2.	Accept in part
1169	1	Tom Kane	2	16	16.7.2.	Reject
1190	36	The Bay of Many Coves Residents and Ratepayers Association Incorporated	2	16	16.7.2.	Accept
1193	45	The Marlborough Environment Centre Incorporated	2	16	16.7.2.	Accept in part
1222	1	Warwick Foley	2	16	16.7.2.	Reject
1232	1	Waikawa Boating Club	2	16	16.7.2.	Reject
1233	13	Waikawa Boating Club	2	16	16.7.2.	Reject



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1246	11	Pelorus Boating Club Incorporated	2	16	16.7.2.	Reject
1260	1	Christopher Robert Webb	2	16	16.7.2.	Reject
23	2	James Turner	2	16	16.7.3.	Reject
27	2	Joseph Maurice Carter	2	16	16.7.3.	Reject
38	2	Nicky Jenkins	2	16	16.7.3.	Reject
49	2	Grant Hutchings	2	16	16.7.3.	Reject
50	2	Michael Rattray	2	16	16.7.3.	Reject
51	2	Kerry Kirk	2	16	16.7.3.	Reject
67	2	Anne Marett	2	16	16.7.3.	Reject
68	2	Belinda Moss	2	16	16.7.3.	Reject
70	2	Mark Radnor	2	16	16.7.3.	Reject
71	2	John Jackson	2	16	16.7.3.	Reject
72	2	Mandy Carpenter	2	16	16.7.3.	Reject
76	2	Helen Ashworth	2	16	16.7.3.	Reject
80	2	Brian Hobbs	2	16	16.7.3.	Reject
81	2	Paul Lee	2	16	16.7.3.	Reject
82	2	Sebastian Stapleton	2	16	16.7.3.	Reject
97	1	Jonathan Duffy	2	16	16.7.3.	Reject
101	2	Viv Butcher	2	16	16.7.3.	Reject
102	2	Donald Thomson	2	16	16.7.3.	Reject
106	2	Val Holmes	2	16	16.7.3.	Reject
127	3	Mark Altoft	2	16	16.7.3.	Reject
142	1	Wayne Norwood	2	16	16.7.3.	Reject
170	2	Thomas van der Burgh	2	16	16.7.3.	Reject
178	2	Ralph Rosthorn	2	16	16.7.3.	Reject
235	2	Chris Collie-Holmes	2	16	16.7.3.	Reject
242	2	Doug Smith	2	16	16.7.3.	Reject
248	2	David Colsell	2	16	16.7.3.	Reject
276	2	Ian Gardiner	2	16	16.7.3.	Reject
332	4	Robert John Culbert	2	16	16.7.3.	Reject
401	238	Aquaculture New Zealand	2	16	16.7.3.	Accept
404	51	Eric Jorgensen	2	16	16.7.3.	Accept
424	187	Michael and Kristen Gerard	2	16	16.7.3.	Accept in part
426	234	Marine Farming Association	2	16	16.7.3.	Reject

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494	2	Evaon Watkins	2	16	16.7.3.	Reject
495	2	Bruce Watkins	2	16	16.7.3.	Reject
503	18	Yachting NZ	2	16	16.7.3.	Reject
504	94	QCSRA	2	16	16.7.3.	Accept
523	2	Alan Dodgson	2	16	16.7.3.	Reject
526	2	A G N Anderson	2	16	16.7.3.	Reject
536	2	Andrew Simmonds	2	16	16.7.3.	Reject
580	2	Waikawa Boating Club	2	16	16.7.3.	Reject
586	2	Christopher Fenton McCallum	2	16	16.7.3.	Reject
644	2	Diana Elizabeth Harper	2	16	16.7.3.	Reject
651	2	David James Nelson	2	16	16.7.3.	Reject
653	2	David Edward Johnstone	2	16	16.7.3.	Reject
675	2	Donald Wright	2	16	16.7.3.	Reject
695	2	Elias I Wilson	2	16	16.7.3.	Reject
706	2	Forrest McDougall	2	16	16.7.3.	Reject
720	2	Gordon Berry	2	16	16.7.3.	Reject
732	2	Graeme Kenneth Riach	2	16	16.7.3.	Reject
739	2	Graham Bruce Robertson	2	16	16.7.3.	Reject
752	51	Guardians of the Sounds	2	16	16.7.3.	Accept in part
774	2	Ian Murray and Elizabeth Ann MacDonald	2	16	16.7.3.	Reject
786	2	Waikawa Boating Club	2	16	16.7.3.	Reject
789	2	John Nicholas Burton	2	16	16.7.3.	Reject
795	2	Jeff Cook	2	16	16.7.3.	Reject
813	2	John Leon Aldridge	2	16	16.7.3.	Reject
840	2	John Winlove	2	16	16.7.3.	Reject
849	2	Ken Cookson	2	16	16.7.3.	Reject
864	2	Katie Strader	2	16	16.7.3.	Reject
875	2	Liz Ann Nelson	2	16	16.7.3.	Reject
876	2	Leonard Arthur Woodman	2	16	16.7.3.	Reject
933	2	Michael John Dryden	2	16	16.7.3.	Reject
938	2	Mark Langdon Robertson	2	16	16.7.3.	Reject
947	2	Melvyn Ronald Davies	2	16	16.7.3.	Reject
960	17	Marlborough Berth and Mooring Association	2	16	16.7.3.	Reject
980	2	Nigel Edward Ackroyd	2	16	16.7.3.	Reject

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1020	2	Peter M Thorne George	2	16	16.7.3.	Reject
1033	2	Pacific Eagle Charters Limited	2	16	16.7.3.	Reject
1048	2	Robyn Anne Barclay	2	16	16.7.3.	Reject
1071	2	Roland McGregor Post	2	16	16.7.3.	Reject
1105	2	Simon Bell	2	16	16.7.3.	Reject
1117	2	Steven Guy La Plante	2	16	16.7.3.	Reject
1140	41	Sanford Limited	2	16	16.7.3.	Accept in part
1146	51	Sea Shepherd New Zealand	2	16	16.7.3.	Accept in part
1169	2	Tom Kane	2	16	16.7.3.	Reject
1190	37	The Bay of Many Coves Residents and Ratepayers Association Incorporated	2	16	16.7.3.	Accept in part
1193	46	The Marlborough Environment Centre Incorporated	2	16	16.7.3.	Accept in part
1222	2	Warwick Foley	2	16	16.7.3.	Reject
1232	2	Waikawa Boating Club	2	16	16.7.3.	Reject
1233	14	Waikawa Boating Club	2	16	16.7.3.	Reject
1246	12	Pelorus Boating Club Incorporated	2	16	16.7.3.	Reject
1260	2	Christopher Robert Webb	2	16	16.7.3.	Reject
91	156	Marlborough District Council	2	16	16.7.4.	Accept
127	2	Mark Altoft	2	16	16.7.4.	Reject
401	239	Aquaculture New Zealand	2	16	16.7.4.	Accept
404	52	Eric Jorgensen	2	16	16.7.4.	Accept
424	188	Michael and Kristen Gerard	2	16	16.7.4.	Accept in part
426	235	Marine Farming Association	2	16	16.7.4.	Accept
479	244	Department of Conservation	2	16	16.7.4.	Accept
503	19	Yachting NZ	2	16	16.7.4.	Reject
504	95	QCSRA	2	16	16.7.4.	Accept
960	19	Marlborough Berth and Mooring Association	2	16	16.7.4.	Reject
1189	122	Te Runanga o Kaikoura and Te Runanga o Ngai Tahu	2	16	16.7.4.	Accept
1233	15	Waikawa Boating Club	2	16	16.7.4.	Reject
1246	13	Pelorus Boating Club Incorporated	2	16	16.7.4.	Reject
401	235	Aquaculture New Zealand	2	16	16.7.6.	Accept in part
426	231	Marine Farming Association	2	16	16.7.6.	Accept in part
479	246	Department of Conservation	2	16	16.7.6.	Accept
992	68	New Zealand Defence Force	2	16	16.7.6.	Accept in part

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1140	52	Sanford Limited	2	16	16.7.6.	Accept in part
91	157	Marlborough District Council	1	15	Policy 15.1.19	Accept
424	126	Michael and Kristen Gerard	1	15	Policy 15.1.19	Reject
425	296	Federated Farmers	1	15	Policy 15.1.19	Reject
479	138	Department of Conservation	1	15	Policy 15.1.19	Reject
496	57	Royal Forest and Bird Protection Society NZ {Forest & Bird}	1	15	Policy 15.1.19	Accept
501	75	Te Runanga O Ngati Kuaia	1	15	Policy 15.1.19	Reject
503	6	Yachting NZ	1	15	Policy 15.1.19	Accept
873	66	KiwiRail Holdings Limited	1	15	Policy 15.1.19	Accept
960	13	Marlborough Berth and Mooring Association	1	15	Policy 15.1.19	Reject
961	60	Marlborough Chamber of Commerce	1	15	Policy 15.1.19	Reject
1186	88	Te Atiawa o Te Waka-a-Maui	1	15	Policy 15.1.19	Reject
1233	8	Waikawa Boating Club	1	15	Policy 15.1.19	Reject
1246	8	Pelorus Boating Club Incorporated	1	15	Policy 15.1.19	Reject
424	127	Michael and Kristen Gerard	1	15	Policy 15.1.20	Accept
496	58	Royal Forest and Bird Protection Society NZ {Forest & Bird}	1	15	Policy 15.1.20	Accept
503	7	Yachting NZ	1	15	Policy 15.1.20	Reject
873	67	KiwiRail Holdings Limited	1	15	Policy 15.1.20	Accept
960	14	Marlborough Berth and Mooring Association	1	15	Policy 15.1.20	Reject
1233	9	Waikawa Boating Club	1	15	Policy 15.1.20	Reject
1246	9	Pelorus Boating Club Incorporated	1	15	Policy 15.1.20	Reject
873	202	KiwiRail Holdings Limited	3	Appendix 12		Accept
433	207	PMNZ	4	Zoning Maps	Zoning Map 35	Accept
433	209	PMNZ	4	Zoning Maps	Zoning Map 36	Reject
433	204	PMNZ	4	Zoning Maps	Zoning Map 41	Reject
433	205	PMNZ	4	Zoning Maps	Zoning Map 41	Accept
433	206	PMNZ	4	Zoning Maps	Zoning Map 43	Accept
401	294	Aquaculture New Zealand	4	Zoning Maps	Zoning Map 65	Accept in part

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433	208	PMNZ	4	Zoning Maps	Zoning Map 65	Accept
750	10	Goulding Trustees Limited	4	Zoning Maps	Zoning Map 65	Reject
842	17	Just Mussels Limited and Tawhitinui Greenshell Limited	4	Zoning Maps	Zoning Map 65	Reject
1150	11	Shellfish Marine Farms Limited	4	Zoning Maps	Zoning Map 65	Reject
401	296	Aquaculture New Zealand	4	Zoning Maps	Zoning Map 77	Reject
426	287	Marine Farming Association	4	Zoning Maps	Zoning Map 77	Reject
401	295	Aquaculture New Zealand	4	Zoning Maps	Zoning Map 103	Accept in part
426	286	Marine Farming Association	4	Zoning Maps	Zoning Map 103	Accept in part
750	11	Goulding Trustees Limited	4	Zoning Maps	Zoning Map 103	Reject
842	18	Just Mussels Limited and Tawhitinui Greenshell Limited	4	Zoning Maps	Zoning Map 103	Reject
873	201	KiwiRail Holdings Limited	4	Zoning Maps	Zoning Map 138	Accept
1186	15	Te Atiawa o Te Waka-a-Maui	4	Zoning Maps	Zoning Map 36	Accept in part
1186	227	Te Atiawa o Te Waka-a-Maui	4	Zoning Maps	Zoning Map 36	Accept in part
873	200	KiwiRail Holdings Limited	4	Zoning Maps	Zoning Map 37	Accept
1244	14	Z Energy Limited	4	Zoning Maps	Zoning Map 37	Accept
426	283	Marine Farming Association	4	Zoning Maps	Zoning Map 64	Reject
426	285	Marine Farming Association	4	Zoning Maps	Zoning Map 65	Accept in part
1150	12	Shellfish Marine Farms Limited	4	Zoning Maps	Zoning Map 103	Reject
1186	16	Te Atiawa o Te Waka-a-Maui	4	Zoning Maps	Zoning Map 138	Accept in part

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401	297	Aquaculture New Zealand	4	Zoning Maps	Zoning Map 139	Reject
1041	1	Port Clifford Limited	4	Zoning Maps	Zoning Map 187	Reject
426	288	Marine Farming Association	4	Zoning Maps	Zoning Map 139	Reject
401	292	Aquaculture New Zealand	4	Zoning Maps	Zoning Map 64	Reject
401	293	Aquaculture New Zealand	4	Zoning Maps	Zoning Map 111	Reject
426	284	Marine Farming Association	4	Zoning Maps	Zoning Map 111	Reject
218	5	Salvador Delgado Oro Laprida	4	Overlay Maps	NTR	Reject
401	291	Aquaculture New Zealand	4	Overlay Maps	NTR	Reject
426	282	Marine Farming Association	4	Overlay Maps	NTR	Reject
544	21	Apex Marine Farm Limited	4	Overlay Maps	NTR	Reject
790	8	Strait Shipping Limited	4	Overlay Maps	NTR	Reject
873	193	KiwiRail Holdings Limited	4	Overlay Maps	NTR	Reject
890	21	Lloyd Sampson David	4	Overlay Maps	NTR	Reject
997	3	The New Zealand King Salmon Company Limited	4	Overlay Maps	NTR	Reject
1002	276	New Zealand Transport Agency	4	Overlay Maps	NTR	Reject
1140	101	Sanford Limited	4	Overlay Maps	NTR	Reject
873	173	KiwiRail Holdings Limited	2	25 Definitions	Wave Energy	Accept
873	175	KiwiRail Holdings Limited	2	25 Definitions	High Speed Ship	Accept
1140	71	Sanford Limited	2	25 Definitions	Marine Farm	Reject

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1041	82	Port Clifford Limited	2	25 Definitions	Port Activities	Accept
873	180	KiwiRail Holdings Limited	2	25 Definitions	Port Engeneering	Accept
873	181	KiwiRail Holdings Limited	2	25 Definitions	Ship Speed	Accept
873	184	KiwiRail Holdings Limited	2	25 Definitions	Waver Energy	Accept
873	185	KiwiRail Holdings Limited	2	25 Definitions	Wave Record	Accept
355	6	Dominion Salt Limited	22	22.1.1.	22.1.1.	Accept
355	7	Dominion Salt Limited	22	22.2.1.2.	22.2.1.2.	Accept
355	8	Dominion Salt Limited	22	22.1.3.	22.1.3.	Reject
355	11	Dominion Salt Limited	22	22.2.1.3.	22.2.1.3.	Reject
355	12	Dominion Salt Limited	22	22.3.4.1.	22.3.4.1.	Accept in part
1189	123	Te Runanga o Kaikoura and Te Runanga o Ngai Tahu	22	22.	22.	Accept
91	166	Marlborough District Council	22	22.3.6	22.3.6	Accept
91	165	Marlborough District Council	22	22.3.6	22.3.6	Accept