

BEFORE THE MARLBOROUGH DISTRICT COUNCIL

IN THE MATTER OF the Resource Management Act 1991

AND

IN THE MATTER OF Plan Change 21 Waikawa Bay - Marina
Extension and Mooring Management Areas to
the Marlborough Sounds Resource
Management Plan

**SUPPLEMENTARY STATEMENT OF EVIDENCE BY
LOUISE ROBERTSON AND JOHN KYLE
ON BEHALF OF PORT MARLBOROUGH NEW ZEALAND LIMITED
17 DECEMBER 2010**

1. INTRODUCTION

- 1.1 This is a joint statement by Louise Robertson and John Kyle, both Partners of resource management company Mitchell Partnerships Limited. Our qualifications and experience are set out in our statements in chief (dated 8 November 2010).
- 1.2 We confirm that we have read the Code of Conduct for expert witnesses contained in the Environment Court Practice Note and that we agree to comply with it. We confirm that we have considered all the material facts that we are aware of that might alter or detract from the opinions we express. In particular, unless we state otherwise, this evidence is within our spheres of expertise and we have not omitted to consider material facts known to us that might alter or detract from the opinions we express.
- 1.3 The purpose of this statement is to respond to several matters raised during the hearing of Proposed Plan Change 21 to the Marlborough Sounds Resource Management Plan (PC21), held between 22 November and 1 December 2010. This statement forms part of the applicant's right of reply, and does not introduce new evidence, other than that specifically requested by the Chairman of Commissioners, Mr Maasan.
- 1.4 This evidence assesses the Plan Change in the light of the evidence presented at the hearing by submitters affiliated with Te Atiawa Manawhenua on the 30 November and 1 December. Having considered the various matters, we come to conclusions about both the appropriateness of PC21 as a whole, and the specific plan provisions. In terms of this latter issue, we assess in detail the amendments set out by Mr Quickfall at the hearing, and the "version 8" provisions presented by him and dated 1.12.10. We have attached a new version of the provisions to this statement, Version 9, dated 17.12.10 (Appendix A) for the Commissioners' consideration.

2. THE EVIDENCE FOR TE ATIWA

- 2.1 Submitters who are part of, and connected to Te Atiawa Manawhenua (Te Atiawa) presented evidence at the hearing on the 30 November and 1 December. Some of the evidence was new and supplemented the four pre-circulated briefs of evidence from Te Atiawa.

- 2.2 During the hearing it was suggested by the Commissioners that because we had not yet had the opportunity to hear directly from all of the Te Atiawa witnesses, we may not have had full information upon which to complete our respective planning assessments insofar as these relate to tangata whenua issues. On this basis we were asked to listen to the evidence and provide supplementary comment in this regard.
- 2.3 We duly listened to the Te Atiawa witnesses and have considered what was presented.
- 2.4 In summary we heard that Te Atiawa asserts:
- 2.4.1 Its deep seated spiritual affinity with Waikawa Bay and its environs and responsibility as Kaitiaki of the Bay;
 - 2.4.2 Its affinity with the Bay is in part based on an ancestral connection and a desire to pass on a Bay to future generations that is capable of sustaining them, as it did for the ancestors;
 - 2.4.3 That historical development of Waikawa Bay (both in the coastal marine area and in the settlement itself) has adversely affected the Bay and in particular this has compromised direct access to the CMA and their Kaitiaki role;
 - 2.4.4 That the ability to gather kaimoana from Waikawa Bay has declined over the past several decades.
- 2.5 We also heard that:
- 2.5.1 While Te Atiawa continue to hold a strong connection to the Bay and its resources, it was not clear that significant gathering of kaimoana continues to occur in Waikawa Bay or whether it can occur;
 - 2.5.2 In the vicinity of the proposed marina zone extension (the north west marina zone extension) we did not hear any evidence of regular gathering of kaimoana currently occurring. In fact more than one witness said they do not collect kaimoana in that area because of the lack of shellfish numbers and because they do not like walking through the existing marina;

- 2.5.3 Whilst all of the Te Atiawa witnesses opposed PC21 (and the associated Moorings Management Bylaw), there were different views about whether some type of compromise might be achievable that would meet all the parties' objectives;
- 2.5.4 Many Te Atiawa witnesses criticised Port Marlborough New Zealand Limited (PMNZ) for a lack of meaningful consultation. However there was some acknowledgement that Te Atiawa resources were such that there was some difficulty on the part of Te Atiawa to put a large amount of time into partaking in such consultation;
- 2.5.5 There was no definitive view as to whether further consultation would be beneficial or appropriate in this case. We noted that when PMNZ offered to adjourn the hearing to carry out talks with Te Atiawa in the hope that a compromise might be reached, this offer was not taken up.
- 2.5.6 The planner providing evidence on behalf of Te Atiawa considered that a more robust alternatives assessment was necessary to enable the Commissioners to come to an informed decision.

3. PLANNING ASSESSMENT OF CULTURAL ISSUES

- 3.1 We note that a number of legal parameters with respect to assessing effects on tangata whenua values were set out in the opening submissions for PMNZ¹. In our view, these parameters provide a critical backdrop to the evaluation of PC21. The approaches set out in these submissions accords with the experiences we have had in other cases involving tangata whenua issues.
- 3.2 We understand that when undertaking the broad judgement required by Part 2, the nature and extent of claimed customary values should be assessed objectively. That means that the matters raised need to go beyond assertion and be supported by probative evidence. Moreover, it is important to focus on the outcomes that would result as a direct consequence of PC21, rather than account for matters associated with the historical development of Waikawa Bay, a view that Mr Quickfall shares. Whilst we accept that historical development within Waikawa has had a significant effect on the perspectives of Te Atiawa, it is our view that care needs to be taken to properly establish what is, and what is not, specifically relevant to PC21.

¹ See in particular paragraph 124.

- 3.3 At an overarching level, there is no doubt that Te Atiawa has a unique and valued relationship with Waikawa Bay, and that the iwi considers that this relationship has been undermined by the historical development that has occurred both within the Coastal Marine Area, and on the land adjacent. We also note that Te Atiawa has expressed concern that any act to extend this development, particularly for marina purposes, is additive.
- 3.4 We acknowledge and respect these views. We consider that a natural tension arises when one comes to apply a probative approach in an area of resource management where objective “science” is to be weighed and compared with values based relationships and perceptions of harm. This tension can produce difficulties for evaluators because those holding the relationships will generally always say that no amount of independent assessment can truly gauge the severity of a given effect on the relationship, as such an evaluation does not utilise the lens of the beholder. In such circumstances, there can be a natural tendency to place very significant weight on the concerns held by those with the relationship. In ascribing weight care needs to be taken to ensure that the concerns at issue have as a basic premise an objectively assessable genesis.
- 3.5 In assessing PC21 in the context of the issues raised by Te Atiawa, we consider it is imperative to apply an objective approach to the evaluation of the values that contribute to the Te Atiawa relationship with Waikawa. What is essential is that the values that prevail within the Bay, and which in turn give rise to the relationship are carefully evaluated, and that PC21 is assessed in the light of that evaluation. It is not enough in our view to say that a place is valued, without accounting fully for what it is that creates this value and how the proposal in question might affect those values.
- 3.6 We have set out what we have identified as comprising the values ascribed to Waikawa Bay by Te Atiawa in paragraph 2.4 above. It is evident to us from what we heard from the various Te Atiawa witnesses that many of the values most coveted by them have in fact already been affected, and in some cases they may have been lost by the historical development of Waikawa. We remain of the view that any adverse effects of this nature or any identified values that have been lost as a product of this history cannot be accounted for in evaluating PC21. PC21 needs to be assessed by reference to the existing environment –

that is the environment as it is, not as it was, or as we might like it to be. Of course any effects, or any effects cumulative on these existing effects can be accounted for, and it is our view that these are the matters that must be considered in weighing up the merits of PC21. We note that Mr Mikaere makes it clear that Treaty issues (for example) are not a matter for consideration in this forum². He also makes comments about Mauri, and notes that the existing development in the Bay must have already affected Mauri. He considers that environmental benefits (such as an improvement in water quality) would improve Mauri³.

3.7 In conducting the necessary assessment we consider that the correct approach is to:

- (a) Describe the incipient environment;
- (b) Identify the values of the place in question;
- (c) Identify what change to those values will occur as a result of the effects of the proposal; and
- (d) Assess the environmental effects of that change in the round, taking into account all relevant factors including the existing environment, adverse and positive effects, and how adverse effects can be avoided, remedied or mitigated.

3.8 In this case the assessment must be based on the effects that will (or are likely to) eventuate from PC21. In that regard PC21 proposes to:

- (a) Extend the Marina Zone to the northwest of the existing Waikawa Marina, to provide space for the future development of a marina with approximately 250 berths and associated access and infrastructure; and
- (b) Create four mooring management areas within the Coastal Marine 1 Zone to authorise the current number of swing moorings in the Bay in an organised and spatially efficient manner, either in accordance with the Navigation Safety Bylaw 2010 (Mooring Management Areas) or via restricted discretionary resource consents; and

² See Mikaere supplementary statement December 2010, paras 30 and 31

³ See Mikaere supplementary statement December 2010, 22 – 29.

- (c) Associated amendments to the definition of “marina”, introduction of a definition of “Waka” and “Waikawa Bay”; and
- (d) Make associated amendments to Coastal Marine and Marina Chapter issues, objectives and policies, and Coastal Marine Zone 1 and Marina Zone rules to give effect to the first two changes. In particular a new objective and three new policies are proposed in the Marina Chapter. New rules set up the framework for the MMAs in the Coastal Marine 1 Zone. Marinas are specifically provided for as discretionary activities with associated assessment criteria for marinas in the Marina Zone.

3.9 We consider that by extending the Marina Zone, and introducing the new issue, objective and policies proposed as part of PC21, there is a stronger expectation than currently prevails in the RMP that a marina is generally suitable in that location. We consider that the policy framework and associated assessment criteria (which are a method of giving effect to the policy framework), should be, and have been focused on enabling a suitable marina extension in the zone, whilst establishing a framework for assessing the various effects that arise, and promoting the consideration of methods to avoid, remedy or mitigate any adverse effects that arise.

3.10 It is clear to us, that the provisions relating to the north-western Marina Zone extension and the changes proposed to that zone give rise to the issues of greatest concern to Te Atiawa. As stated above, historical development of the marina has in the eyes of Te Atiawa already served to fetter the relationship that they have with the Bay, and it seems it has largely removed an historical opportunity to gather kaimoana. Whilst it may appear somewhat hardnosed to say it, these matters are historical and they relate to earlier statutory approvals. In our view they are not matters that should be sought to be addressed by this hearings panel in weighing the merits of PC21. In our view it is essential that only the effects of this proposal in the context of the existing environment, and any cumulative effects created by the implementation of PC21 are accounted for in weighing its merits.

3.11 We accept of course that further expansion of the marina would, in the eyes of Te Atiawa, further erode their relationship with Waikawa. However, it is clear

that the Bay would still play host to a healthy ecosystem⁴. Moreover the further loss of opportunity for gathering kaimoana in the north-western extension area has not been assessed as being significant in the overall context of the Bay⁵ or indeed in Te Atiawa's wider rohe. Whilst this is likely to be at least in part a product of the fact that the existing marina has been developed, it is not appropriate in our view to foreclose a future marina expansion on the basis that it would further erode the ability to gather kaimoana, unless the subject area is currently important in its own right for that purpose. There is little evidence that we are aware of that the area subject to PC21 is currently utilised in this way⁶.

- 3.12 We accept that what might make up the role of kaitiaki in this particular case is a matter for determination by Te Atiawa. The evidence has assisted our understanding as to the values that contribute to this role. We understand that any further "loss" of the current public space to marina development is viewed by Te Atiawa as a further erosion of this kaitiaki role.
- 3.13 We accept that extending the marina would have some effect on alienating public coastal space. However much of the north-western extension area is already occupied by moorings. Moreover, the marina would not be operated in such a way as to foreclose public access in totality. Whilst the nature of this access will change, public access is not completely eliminated.
- 3.14 We also understand that the concept of kaitiaki as expressed by Te Atiawa includes issues of affinity and stewardship and that these extend beyond ecological wellbeing issues and the retention of kaimoana gathering opportunities.

⁴ Refer Sneddon Evidence in chief paragraphs 2.6 – 2.8, 8.2 – 8.7, 11.1

⁵ Refer to Sneddon Evidence in chief, Sneddon Supplementary Statement and also Sneddon Letter Dated 15.12.10

⁶ Ms Martin and Mr Buchanan were the only witnesses who made any reference to shell fish in the general location of the northwest extension. No specific detail was given about frequency of use or quantity of shell fish collected. Mr Buchanan (para 13) and Ms Buchanan (page 12 and 15) both referred to collection of pipis in locations other than the northwest shoreline. A participant in the video played by Mr Ohia stated that seafood was purchased at the supermarket.

3.15 Notwithstanding this our view is that the factual situation must guide and inform how these cultural issues are to be weighted in terms of Part 2 and the totality of the evaluation of PC21. In our opinions the evidence for Port Marlborough has effectively dealt with these matters.

3.16 In evaluating PC21 it is also important in our view to account for the fact that the plan change seeks to introduce more rigour around the assessment of resource consent applications for marina development in Waikawa. PC21 clearly introduces marinas as discretionary activities in the Marina Zone. It will be necessary to fully evaluate the environmental effects of future marina development, and identify how any proposal will avoid, remedy or mitigate those effects. This would apply to any marina development in a Marina Zone, so would include a marina in the existing northeast Marina Zone (Area B on the staging plan). In our view, there is a clear opportunity for remedial measures to be considered and ultimately applied as a result of further development in the Marina Zone. Mr Quickfall has recognised this⁷ and Mr Mikaere comes to similar conclusions⁸. We hold the view that if the proponent of future marina developments within the Bay can establish an effective working relationship with Te Atiawa, then a good deal could be achieved in terms of remediation of any new adverse effects created, and those effects that have already occurred.

4. ALTERNATIVES

4.1 Mr Batchelor claimed that there may be alternatives to that proposed by PC21, presumably that would alleviate the concerns of his client. Unfortunately Mr Batchelor was not able to present any actual alternatives, either in terms of location, or in terms of marina design or type.

4.2 We agree with Mr Quickfall, who concludes that evidence presented at the hearing convinced him that Picton and Shakepeare Bay are not viable options for marina development or expansion, and that Havelock would not provide a solution to the demand for berths at Waikawa Bay⁹.

⁷ See his paragraphs 24-28 of the final statement presented on 1 December.

⁸ See Mikaere supplementary statement December 2010

⁹ Quickfall statement 1 December 2010 paragraphs 5 – 9.

- 4.3 Mr Quickfall notes that PC21 is a site specific plan change for a specific location. He concludes that *"I do not consider necessary to evaluate other areas in the sounds, since this is a site specific proposal"*¹⁰. We agree with this approach.
- 4.4 We did not hear any evidence from Te Atiawa witnesses that they would support any specific alternatives.

5. PLAN PROVISIONS – MR QUICKFALL'S VERSION 8

- 5.1 As the Commissioners are aware, the MSRMP provisions to be changed by PC21 have been amended prior to the hearing and during the hearing as a result of caucusing by many of the planners involved in the hearing. As part of his presentation at the conclusion of the hearing, Mr Quickfall presented a new version of the provisions (version 8, dated 1.12.10) which included amendments which had not been the subject of caucusing (solely due to time limitations between the witnesses' presentations and Mr Quickfall's presentation).
- 5.2 We have reviewed Mr Quickfall's amendments and are largely supportive of them. We agree with Mr Quickfall's methodology and conclusions that declining PC21 still allows marina development outside the Marina Zones as discretionary activities. We agree with Mr Quickfall that the proposed changes (as amended) will in fact strengthen the controls on further marina development and they offer a more rigorous assessment of marina proposals than the existing provisions¹¹.
- 5.3 We are also mindful that if the policies and assessment criteria are inserted into the RMP that they do not do the opposite of what is intended in PC21, and result in a zone within which it is very difficult to obtain a resource consent for a marina. We support an approach that requires focused assessment, and which provides for a structure where mitigation and environmental remediation are seen as appropriate tools to manage adverse effects.

¹⁰ Quickfall statement 1 December 2010, paragraph 9

¹¹ Quickfall statement 1 December 2010 paragraph 21.

- 5.4 We attach Mr Quickfall's provisions, and have re-named and dated them to Version 9, dated 17.12.10 (refer Appendix A). We have tracked our suggested amendments and added comments on specific changes.

Definitions and Chapter 9

- 5.5 We note that Mr Quickfall has not recommended any further amendments to the definitions and only one very minor change to the explanation under the Policies in Chapter 9 (refer page 7, Version 8, dated 1.12.10). We agree that this is appropriate.

Chapter 10 – 10.7 Marina Activities – introductory text

- 5.6 Turning to chapter 10, urban environments and section 10.7 Marina Activity in particular, Mr Quickfall has recommended a series of quite significant changes to the explanations, the proposed issue and the policies.
- 5.7 The first change is on page 12 of Version 8 dated 1.12.10, "Introduction to Marina Activity". Mr Quickfall proposes the following changes to the wording proposed by PC21:

Demand for marina berths should be provided within existing marinas in preference to ~~It is preferred that existing Marina facility are extended to cater to demand, rather than~~ establishing new Marina facilities in areas that have not yet been subjected to such development.

- 5.8 We do not agree with this change. The wording as Mr Quickfall has it misses the "extension" option as being valid. We suggest that the wording be changed as follows:

Demand for marina berths should be provided **for** within existing marinas, **or in extensions to existing marinas**, in preference to ~~It is preferred that existing Marina facility are extended to cater to demand, rather than~~ establishing new Marina facilities in areas that have not yet been subjected to such development.
[our additional text is in underline bold]

10.7.1 Issues

- 5.9 Mr Quickfall recommends amending the new issue introduced by PC21. The issue as notified by PC21 is:

Demand for new marinas and for the extension of existing marinas.

5.10 Mr Quickfall recommends this be amended as follows:

Managing on-going demand for new marina berths.

5.11 We are comfortable with this change.

10.7.1.1 Objectives and Policies

5.12 Mr Quickfall has significantly amended policy 3.2, and introduced a further four new policies, which would sit under the new Objective 3. Mr Quickfall's changes are listed below, and our comments sit out at the side.

Objective 3	Enable the sustainable development, and operation of marinas and associated infrastructure within the Marina Zone.
Policy 3.1	Avoid the proliferation of marina development within the coastal marine area by focusing such development within the Marina Zone as a first priority.
Policy 3.2	Enable the construction, maintenance and operation of marina activities within Marina Zones, whilst Ensuring that marina development and activities such activities make efficient use of natural and physical resources including existing marina facilities and whilst ensuring any adverse effects on the environment are avoided, remedied or mitigated.
Policy 3.3	Marina development within Marina Zones is enabled provided that any significant adverse effects on the environment are avoided, and providing that any other adverse effects are avoided, remedied or mitigated. In considering effects, particular regard will be given to any cumulative effects, and any adverse effects on tangata whenua cultural values areas regularly used for the gathering of kaimoana and sites of cultural significance.
Policy 3.4	Where adverse effects cannot be avoided or mitigated, in addition to any on-site mitigation, provide for remediation or the off-setting of adverse effects. This may comprise measures employed off-site as appropriate, including remediation to address adverse effects on cultural values.
Policy 3.5	Ensure marinas incorporate and retain public access to the foreshore, coastal environment and coastal marine areas which are not occupied by berths, where such access does not interfere with the safe and efficient operation of the marina.

Comment [LR1]: Note that there marinas are now a non-complying activity in the Coastal Marine 1 zone which supports this rule.

Comment [t2]: Amended to reflect questioning from commissioners relating to efficient use, and to better align the policy with the rule structure.

Comment [LR3]: JK and LR – comfortable with this change (policy 3.2).

Comment [t4]: Policy 3.3; 3.4; 3.5; 3.6 Amended / added to reflect questioning from commissioners and in response to Te Atiawa evidence. Scope for these changes is to give partial relief to Te Atiawa submissions.

Comment [t5]: Off-set mitigation suggested by Ms Robertson & Mr Kyle in response to Commissioner Ellison question on relationship of Tangata Whenua to Waikawa. Also refer Te Atiawa evidence - Mr Ohia evidence pg 19

Comment [LR6]: JK/LR – we support the intent of these two policies, although the Quickfall wording of policy 3.3 goes beyond what the act requires. It would essentially result in a veto if there were any significant effects, regardless of the scale of that effect or any mitigation or off –set. The wording we have proposed provides a middle ground, where by effects of cultural values will be assessed, and provided for in any assessment. Adverse effects on cultural values will be avoided, remedied or mitigated. It is appropriate to reflect that remediation may in fact be off-site and in some form of off-set. (policies 3.3 and 3.4)

Comment [LR7]: JK/LR – we support the importance of providing for public access via marinas. However this must be balanced with the health and safety requirements the marina operator must meet. In many instances it is not safe for public to directly access the water from a marina (to swim for example). The most common forms of public access and use and provision of vehicle and foot access along the coastline, and walking along/fishing off jettys and breakwaters during the day.

Policy 3.6	In undertaking marina development, have particular regard to kaitiaki iwi at all stages including planning and design, consultation, resource consent, construction and post construction.
Policy 3.6	Avoid swing moorings in the marina zone except where: <ul style="list-style-type: none"> (i) moorings are included within Appendix J, Schedule 4.1; and (ii) moorings are lawfully established by way of resource consent; and (iii) no marina is being or has been constructed in the Area where the swing mooring is located.

Comment [t8]: Changes agreed Tony Quickfall Louise Robertson Paul Williams

Lionel Solly's preferred replacement wording is identified in Appendix 3 of his evidence.

5.13 The remainder of the changes proposed by Mr Quickfall are largely supported, in particular providing for marinas in the Coastal Marine 1 zone as non-complying activities. The attached Version 9, dated 17.12.10 provides comment on each of Mr Quickfall changes.

6. CONCLUSION

6.1 In conclusion, it is our view that the provisions proposed, as part of Plan Change 21¹², are the most appropriate way to achieve the proposed new objective 3 (as it relates to marinas – chapter 10) and existing objective 1 (in chapter 9 as it relates to the Coastal Marine Zone). It will also achieve the relevant existing objectives of the Resource Management Plan.

6.2 Having heard and considered the evidence from the Te Atiawa witnesses, we hold the view that the most significant effects are not significantly adverse, when they are assessed on an objective basis. Moreover, many of the effects of concern derive from the historical development of Waikawa and this proposal does not give rise to significant or unacceptable adverse additive or cumulative effects in this regard. Any effects on cultural values from future development of the marina zone can be properly addressed via the resource consent process. We consider that the policy framework must provide direction to applicants, the community, iwi and decisions makers about what must be considered in such a resource consent process. We are mindful that the policies should not become so restrictive as to result in it being almost impossible to obtain a resource consent for a marina in the Marina Zone.

¹² As amended in Appendix A

6.3 Any future marina development will result in some environmental effects. A resource consent process should assess those effects, and affords an appropriate framework for avoiding, remedying or mitigating any residual effects. It is our view that there should be specific provision for the ability to remedy or off-set effects where on site mitigation is not feasible. We consider that the policies set out with our amendments provide appropriately for this approach.

6.4 It is our view that the suite of issues, objectives, policies and methods (including rules) attached¹³ will require cultural issues to be specifically addressed via any resource consent application for marina development in the marina zone. The proposed policies and assessment criteria as they relate to marinas in particular, are much more focused on iwi issues than the status quo plan provisions. The fact that these provisions will apply to all of the Marina Zone, (so to both the proposed northwest Marina Zone extension, and the existing northeast Marina Zone in relation to new development), means that by granting PC21 both the local authority considering this plan change and those subsequently exercising functions under the Plan will discharge their obligations in terms of s6(e) and s7(a) of the Act.

J KYLE AND L ROBERTSON
17 DECEMBER 2010

¹³ See Version 9, dated 17.12.10 attached as Appendix A

APPENDIX A

Version 9, dated 17.12.10

PC21 MSRMP Provisions

Schedule of Changes - incorporating amendments recommended in section 42A report and caucusing

Tracked Version reflecting changes arising from the hearing:

version 9, dated 17.12.10

Where text is proposed to be added to the Marlborough Sounds Resource Management Plan (the Plan) through this plan change, it has been shown as underlined. Where text is shown as ~~struck through~~ in this Plan Change the text is existing text and is to be deleted.

Recommended amendments from the section 42A report shows as yellow **highlighted underlining** for recommended new additions and as yellow **highlighted strike-outs** for recommended deletions.

All other text is either existing text from the Plan and has been included for context to assist the reader in determining where the changes occur or provides the reader with information and does not form part of the plan change.

Changes arising from expert caucusing are identified as follows:

1. Subsequent amendments recommended by the Council's reporting officer (consultant) are indicated in **highlighted red underlining** for recommended new additions and as red **highlighted strike-outs** for recommended deletions.
2. Port Marlborough's amendments to those recommended in the section 42A report show as blue **highlighted bold underlining** for recommended new additions and as blue **highlighted strike-outs** for recommended deletions. These are identified as "PMNZ" changes
3. Other party's / experts agreements are recorded in comments.
4. Where specific agreement has been reached, or there is disagreement, this is recorded in comments.
5. Where yellow highlighted changes have no comments, all experts are in agreement.
6. **Green highlights** denote changes arising through the course of the hearing and recommended by the s42A report author.
7. **Pink highlights** denote amendments made to s42 report author amendments arising out of the hearing, where PMNZ disagree (J Kyle and L Robertson).

The Marlborough Sounds Resource Management Plan is amended in accordance with the following schedule:

25. DEFINITIONS

Amend the definition of Marina as follows and add the following two new definitions

Provision	
<u>Marina</u>	<p>Means a natural or artificially enclosed or semi enclosed area of protected water containing moorings in the form of finger jetties, berths or similar structures.</p> <p>Means an comprehensively designed facility for the accommodation of boats and/or ships, comprising berths, pontoons, piers and boat launching ramp(s), and any associated reclamations, breakwaters, and/or wave protection barriers. structure(s) such as finger jetties, pontoons, piers, and any associated reclamations and/or breakwaters, to enclose or semi enclose an area of water for the primary purpose of providing boat/ship accommodation.</p>
<u>Waka</u>	<p>Means a traditional Maori canoe, including replica vessels of similar design.</p>
<u>Waikawa Bay</u>	<p>Means that part of the coastal marine area to the south of the line extending from the Snout and Karaka Point, including that area within a Moorings Management Area.</p>

Comment [t1]: Changes agreed:
 -Tony Quickfall
 -Louise Robertson
 -Paul Williams
 -Lionel Solly, except for the preference to insert "integrated" to replace "comprehensively designed".

Volume One - Chapter 9 - Coastal Marine

9.2 Issue

Restriction of public access to the coastal marine area due to the private occupation of water.

Occupation of coastal space involves the Council allocating or authorising the use of public resources for private benefit.

In some cases the use of resources sought is temporary or non-exclusive, generally associated with surfacewater activities such as shipping, recreational boating, swimming or with seabed disturbance activities such as dredging or dumping. In other cases the use of resources requires a degree of use which results in the exclusion of other persons or activities, for example: ports, marinas, marine farms and structures (jetties, swing moorings, boatsheds, and subaqueous cables). Such uses generally rely on a coastal location and to varying degrees, contribute to the wellbeing of individuals and the community in general. Further, the Act and the New Zealand Coastal Policy Statement both recognise that 'use' can be made of the coastal marine area resources and that this does involve occupation of coastal space for private benefit.

There are particular locations in the Marlborough Sounds where there is significant competition for coastal space for use as moorings. As demand for such private use of water space increases, the allocation of coastal marine space needs to be managed effectively and comprehensively to ensure that moorings are efficiently laid out, to avoid conflict with competing uses and users.

For these reasons, it is necessary and appropriate that activities or 'uses' which require a coastal location and which consequently involve the occupation of coastal space, are provided for in the Plan. In providing for ~~these~~ uses which require access to areas of, or the resources of, the coastal marine area, adverse cumulative and other environmental effects must be addressed. Namely the wider context of enabling the community to provide for its social, economic and cultural wellbeing, and preserving the natural character of the coastal environment.

The marine farm industry that has developed in the Marlborough Sounds is of significant value to the nation in terms of export earnings, and also to the region in terms of the employment and income flows that are derived from the industry. A substantial infrastructure involving processing facilities, ports, harvesting vessels and a multitude of other services has developed based on the marine farm industry and Sounds communities have been revitalised as a result of the development of

the industry. All of that infrastructure is reliant upon marine farming which utilises the coastal marine area and the provisions of the Plan recognise that to maintain the strength of the industry, generally it is essential for resource consents to be able to be renewed to continue those marine farming activities.

The Plan recognises that in appropriate areas of the Sounds provision needs to be made respectively for conservation, residential/recreation interest and the interest of important industries utilising Sounds resources such as marine farming, tourism, forestry and land-based farming.

In addition, ongoing research is constantly occurring as to other means of aquaculture production involving species other than the present predominant species of mussels and it is possible that some other species may involve lesser effects on the environment through having less visible surface structures. The current Plan provisions are based on the predominant bi-valve marine farm structures. It may become necessary for those provisions to be re-addressed by plan change.

The Marlborough Regional Policy Statement (Policies 7.2.10) highlights a number of key considerations for assessing proposals to occupy areas of coastal space.

Essentially, public access and recreational use are identified as matters of prime importance for Marlborough. Any allocation for private benefit must not compromise these important values.

Further important values are highlighted by the Regional Policy Statement in order to guide the allocation of space for aquaculture, these include "...marine habitat sustainability, habitat protection, landscape protection, navigation and safety, and, compatibility with other adjoining activities" (Policy 7.2.10(d)). Tangata whenua values, including access to traditional coastal resources, is also an important consideration in the allocation of coastal space.

Being able to use and develop the public resources of the coastal marine area is a privilege. Often people expect this as of right, particularly if they own land adjacent to the coastal marine area.

9.2.1 Objectives and Policies

Objective 1	The accommodation of appropriate activities in the coastal marine area whilst avoiding, remedying or mitigating the adverse effects of those activities.
Policy 1.1	Avoid, remedy and mitigate the adverse effects of use and

	<p>development of resources in the coastal marine area on any of the following:</p> <ul style="list-style-type: none"> a) Conservation and ecological values; b) Cultural and iwi values; c) Heritage and amenity values; d) Landscape, seascape and aesthetic values; e) Marine habitats and sustainability; f) Natural character of the coastal environment; g) Navigational safety; h) Other activities, including those on land; i) Public access to and along the coast; j) Public health and safety; k) Recreation values; and l) Water quality.
Policy 1.2	<p>Adverse effects of subdivision, use or development in the coastal environment should as far as practicable be avoided. Where complete avoidance is not practicable, the adverse effects should be mitigated and provision made for remedying those effects to the extent practicable.</p>
Policy 1.3	<p>Exclusive occupation of the coastal marine area or occupation which effectively excludes the public will only be allowed to the extent reasonably necessary to carry out the activity.</p>
Policy 1.4	<p>Manage the effects of port and harbour activity by establishing a boundary around specific areas suitable and necessary for port activities in:</p> <ul style="list-style-type: none"> • Picton (including Shakespeare Bay); and • Havelock.
Policy 1.5	<p>Manage the effects of marina activity and future development by establishing a boundary around the</p>

	<p>marina areas at:</p> <ul style="list-style-type: none"> • Picton; • Waikawa; and • Havelock.
Policy 1.6	Ensure recreational interests retain a dominant status over commercial activities that require occupation of coastal space and which preclude recreational use in Queen Charlotte Sound, including Tory Channel, but excluding Port and Marina Zones.
Policy 1.7	Avoid adverse effects from the occupation of coastal space in or around recognised casual mooring areas.
Policy 1.8	<u>Ensure that moorings within Waikawa Bay are allocated in an efficient and co-ordinated manner.</u>
<u>Policy 1.9</u>	<p><u>Avoid moorings in Waikawa Bay outside of the Mooring Management Areas and Waka Moorings Management Areas, except where:</u></p> <ul style="list-style-type: none"> a) <u>moorings within Area A or Area B of the Marina Zone are lawfully established are scheduled within the Marina Zone (Appendix J, Schedule 4.1) and the a Marina remains undeveloped in the relevant Area (refer Appendix J);</u> b) <u>moorings are for providing access to immediately adjoining properties; or</u> c) <u>moorings are a renewal of currently consented moorings; and</u> <p><u>provided adverse effects on the environment are avoided, remedied or mitigated.</u></p>
<u>Policy 1.10</u>	<u>Provide for the consideration of affected party written approvals when assessing a resource consent mooring application within the Mooring Management Area and the Waka Moorings Area, or a scheduled mooring within the Marina Zone (Appendix J, Schedule 4.1), with potentially affected parties generally limited to adjoining mooring holders.</u>
<u>Policy 1.10</u>	Avoid any adverse cumulative effects of foreshore structures by taking into account the existence of other suitable structures prior to erecting new ones.

Comment [t2]: Changes agreed:
 Tony Quickfall
 Louise Robertson
 Paul Williams
 Lionel Solly

Comment [t3]: Lionel Solly proposes deletion of this provision:

Comment [t4]: Deletion agreed:
 Tony Quickfall
 Louise Robertson
 Paul Williams
 Lionel Solly

Policy 1.11	Avoid foreshore structures in areas of recreational use where there is an adverse effect on recreation values.
Policy 1.12	Provide for defence purposes under the Defence Act 1990, provided adverse effects are avoided, remedied and mitigated.
Policy 1.13	Enable roading activities where adverse effects on the coastal environment can be avoided, remedied or mitigated, and provide for the protection of existing roads from coastal processes.
Policy 1.14	To enable a range of activities in appropriate places in the waters of the Sounds including marine farming, tourism, and recreation <u>and cultural uses.</u>
Policy 1.15	Enable the renewal as controlled activities of marine farms authorised by applications made prior to 1 August 1996 as controlled activities, apart from exceptions in Appendix D2 in the Plan.
Policy 1.16	Consideration of other methods of marine farming having lesser effects than long line bi-valve farming in the future.

By controlling the erection of structures and other activities (including marine farms) that use or occupy coastal space, the effects of these are able to be addressed. The extent of occupation and development needs to be controlled to ensure water space is efficiently allocated and to enable all users to obtain benefit from the coast and its waters.

Waikawa Bay is a finite coastal resource that is utilised by a range of cultural, recreational and commercial activities. Policy 9.2.1.1.6 seeks to ensure that recreational uses take precedent over commercial uses, which are provided for via the Marina Zone.

Policy 9.2.1.1.7 recognises that unconstrained casual mooring areas are important, and often crucial in terms of safety, for anchoring boats on a casual basis.

However, due to ongoing the high demand for moorings at Waikawa Bay, and the different uses competing for water space, the location of swing moorings there needs to be managed in a comprehensive way to enable the efficient use of this Bay for various users. The Mooring Management Areas provided in the Bay

Comment [t5]: Amended in response to evidence about demand

Comment [LR6]: JK, LR accept this change

establish the locations where swing moorings are appropriately located. New moorings outside a defined Mooring Management Area are discouraged unless they are for the specific purpose of mooring vessels associated with land owners/residents adjacent to those mooring locations (Policies 9.2.1.1.8 and 9.2.1.1.9). An exception is also made for scheduled moorings within the Marina Zone, so long as the Marina Zone remains undeveloped. This is to provide for the interim use and occupation of existing moorings within the Marina Zone, prior to relocation to the Mooring Management Areas.

Comment [t7]: Deletion agreed:
Tony Quickfall
Louise Robertson
Paul Williams
Lionel Solly

The Mooring Management Areas have been designed to enable safe manoeuvring of vessels between the shore, their berthage and the inner parts of the Bay. The moorings can be managed either via a Bylaw which would provide for the moorings to be allocated and managed by the Council, or, if no such Bylaw is enacted, moorings are allocated and managed in Waikawa Bay by the Council via the resource consent process. Moorings comprise a limited discretionary activity inside of the Mooring Management Area within the Bay, if no Bylaw is in place. An exception is provided for moorings existing as at [notification date] located within the Marina Zone, so long as that zone remains undeveloped. This is to provide for the interim use and occupation of existing moorings within the Marina Zone, prior to relocation to the Mooring Management Areas (Policies 9.2.1.1.9 and 10.7.1.3.3).

Comment [t8]: Insertion agreed:
Tony Quickfall
Louise Robertson
Paul Williams
Lionel Solly

On granting of any resource consent for marina development, mooring holders located in the Marina Zone have a 6 month period to relocate to a reserved space within the Mooring Management Areas.

The policies seek to provide guidance and control on the individual and cumulative adverse environmental effects of marine farms and structures and their use, particularly visual effects. The term 'structure' is defined by the Act as any building, equipment, device or other facility made by people and which is fixed to land (ie; the foreshore or seabed) and includes any raft (section 2).

Separate provision for marine farm transfer sites is no longer appropriate as there is no consistent demand for any particular location or description of the effects of transferring marine farms. Accordingly, transferring a marine farm is treated as a new site where adverse effects can be considered.

Council acknowledges that management and allocation of fisheries resources is to be determined under the provisions of the Fisheries Act 1996 as opposed to the Act. However, Council can control the effects created by fishing as long as those controls are not imposed for a fisheries purposes eg; controls imposed for the protection of vulnerable, unique coastal substrate.

The importance of public access and recreational use is recognised in a number of the occupation policies above, (particularly 1.5) as required by the Marlborough Regional Policy Statement. Council sees the future wellbeing of Marlborough and particularly the Sounds area linked to an increase in the recreational use of coastal resources. It is therefore important to ensure that allocation for coastal space for private use does not occur at the expense of public access and recreation values. It is also important to remember that there are no inherent development rights within the coastal marine area.

Policy 9.2.1.1.2 reflects Policy 3.2.2 of the New Zealand Coastal Policy Statement, which provides a hierarchy whereby adverse effects should be avoided as far as practicable in the first instance, and where these effects cannot be avoided they must be mitigated and remedied to the fullest practicable extent. This is a general policy that applies throughout Chapter 9.

Policies which further address the environmental effects of activities occupying coastal space need to be considered in conjunction with those above. Refer to section 10.6: Port and Harbour Activities; Chapter 10.7: Marina Activity; Chapter 19: Water Transportation; and, the second issue in this chapter, section 9.3

9.2.2 Methods of Implementation

<p>Zoning</p>	<p>The coastal marine area is incorporated into two coastal marine zones (except for port and marina areas).</p> <p>The limits of the Coastal Marine Zones align with the boundary of the coastal marine area, being the: outer limits of the territorial sea; and line of mean high water springs and where the line crosses a river, as agreed between the Minister of Conservation and the Council in the Memorandum of Agreement dated 4 December 1995 or any subsequent amendment to that agreement.</p> <p>Rules have been incorporated to control activities and structures in these zones.</p> <p>In Coastal Marine Zone 1 the Plan identifies those areas where marine farms are prohibited in accordance with Policies 9.2.1.1.1 and 9.2.1.1.6. These areas are</p>
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	<p>identified as being where marine farming will have a significant adverse effect on navigational safety, recreational opportunities, natural character, ecological systems, or cultural, residential or amenity values.</p> <p>In addition to the two coastal marine zones the Plan identifies particular zones for the following activities:</p> <ul style="list-style-type: none"> • Port and harbour activity; and • Marina activity. <p>Such areas are managed for these activities.</p>
Rules	<p>Rules and resource consents generally provide for activities which require coastal space where the adverse effects of occupation are avoided, remedied or mitigated in terms of the assessment criteria and standards identified.</p> <p>Within Coastal Marine Zone 2 out to 50 metres from mean low water mark, and beyond 200 metres from mean low water mark, marine farms are non-complying activities. In those areas marine farming involving fin fish farming may be appropriate and it is recognised that consent may be granted by a resource consent application.</p> <p>Rules enable the use of the coastal marine area for defence purposes.</p> <p><u>Moorings within the Mooring Management Area are managed via the resource consent process as a restricted discretionary activity as the default management process, unless a Bylaw is in place which provides an alternative management framework.</u></p>
Other Legislation	<p>The Council will use its powers and functions under harbour legislation to control navigational conflicts between surface water activities.</p>

	<u>Moorings in the Mooring Management Areas at Waikawa Bay may be managed through a management plan under a bylaw promulgated under the Local Government Act 2002 as an alternative to the default resource consent process.</u>
Liaison	The Council will send notice of permissions for structures to the Hydrographic Office of the Royal NZ Navy, and the Maritime Safety Authority.
Monitoring	The Council will monitor the effects of permitted and consented activities in the coastal marine area to: determine the effectiveness of plan policies and rules; assess compliance with consent conditions; and promote sustainable management.

Rules and zoning will provide certainty with respect to what can and cannot be done in the coastal marine area. In addition, they provide the environmental certainty and control which is needed in this sensitive area.

Policy 3.2.1 of the New Zealand Coastal Policy Statement requires plans to define the type of use and development that would be appropriate in the coastal environment. The policies and methods (ie, rules) provide guidance to resource users on this.

10. URBAN ENVIRONMENTS

10.7 Marina Activity

The enclosed waterways of the Marlborough Sounds offer many recreational boating opportunities to both residents of Marlborough and visitors to the area. Commercial use of boats and other craft is also a significant feature of the district's tourism, marine farming and fishing industries. Many of the smaller recreational craft are stored on dry land and have no need for mooring or berthage. However, there are many vessels that need some form of mooring or berthage and the preference is often for a marina berth. Marinas provide increased safety, security and a range of support facilities such as sewage and rubbish

disposal, freshwater, and fuel supplies and repair and maintenance services. They also make efficient use of water space in providing for longer term vessel storage.

Currently, there are marinas at Picton, Waikawa, Portage and Havelock accommodating a variety of vessels supported by a range of boating industry activities. The ~~ose~~ marinas at Picton, Havelock and Waikawa are substantial complexes, marinas with extensive land based back-up facilities. These marinas are important bases providing landing, storage, and loading facilities for residents of the Sounds as well as providing an important access point to the Sounds for many vessel owners who are not Sounds residents. The Portage marina is comparatively small with limited land based facilities. All of the marinas are important features contributing to the amenity and attraction of the Marlborough Sounds, as well as generating significant economic activity.

There is an ongoing demand for marina berths within the Sounds, which generally exceeds the existing supply, consequently resulting in large waiting lists for berths. However, on occasion external influences, such as the state of the economy, may cause a reversal in this trend. Extension of the Waikawa marina has absorbed most of the current demand for berths in the Queen Charlotte Sound. Where such demand is long term, additional marina capacity is likely to be needed, and new facilities may be required. Generally, the provision of additional marina capacity focuses on enhancing existing facilities, which are already well serviced and strategically located to urban areas, the transport network and to the principal areas of recreation and boating within the Sounds. Demand for marina berths should be provided within or by extension of existing marinas in preference to it is preferred that existing Marina facilities are extended to cater to demand, rather than establishing new Marina facilities in areas that have not yet been subjected to such development.

Comment [t9]: Amended in response to evidence relating to demand

Comment [MSOffice10]: LR/JK - Important to reflect that extensions of existing marinas are likely to be more appropriate than new marinas in new areas.

10.7.1 Issues

Inadequate provision of land with amenities compatible with marina activity can result in lack of recreational opportunities and adverse effects on the environment of surrounding areas; and,

The need to manage the effects of marinas, and

Managing on-going demand for new marina berths Demand for new marinas and for the extension of existing marinas.

Comment [t11]: Amended in response to evidence relating to demand, and to better reflect the RM issue as expressed by witnesses.

Comment [MSOffice12]: LR/JK - accept this change

The Sounds offer extensive opportunities for both commercial and recreational boating. With their strategic positioning in the Marlborough Sounds, both Picton and Havelock represent significant marine centres.

Marina activity is an integral part of the urban environment. In addition, marinas offer a rationalisation of coastal marine space by concentrating moorings. Marinas provide the most efficient method of water based berthage currently available. Marinas also concentrate adverse effects (such as antifouling and sewage discharges) to a single part of the coastal marine area, avoiding the need for such activity and effects throughout the coastal marine area. Good design and equipment, combined with appropriate controls can minimise the adverse effects within the marina itself.

10.7.1.1 Objectives and Policies

Objective 3	Enable the sustainable development, and operation of marinas and associated infrastructure within the Marina Zone.
Policy 3.1	Avoid the proliferation of marina development within the coastal marine area by focusing such development within the Marina Zone as a first priority.
Policy 3.2	Enable the construction, maintenance and operation of marina activities within Marina Zones, whilst Ensuring that marina development and activities such activities make efficient use of natural and physical resources including existing marina facilities and whilst ensuring any adverse effects on the environment are avoided, remedied or mitigated.
Policy 3.3	Marina development within Marina Zones is enabled provided that any significant adverse effects on the environment are avoided, and providing that any other adverse effects are avoided, remedied or mitigated. In considering effects, particular regard will be given to any cumulative effects, and any adverse effects on tangata whenua cultural values areas regularly used for the gathering of kaimoana and sites of cultural significance.
Policy 3.4	Where adverse effects cannot be avoided or mitigated, in addition to any on site mitigation, provide for remediation or the off-setting of adverse effects. This may comprise measures employed off-site as appropriate, including remediation to address adverse effects on cultural values.
Policy 3.5	Ensure marinas incorporate and retain public access to the foreshore, coastal environment and coastal marine areas which are not occupied by berths, where such access does not interfere with the safe and efficient operation of the marina.
Policy 3.6	In undertaking marina development, have particular regard to kaitiaki iwi at all stages including planning and design, consultation, resource consent, construction and post construction

Comment [LR13]: Note that there marinas are now a non-complying activity in the Coastal Marine 1 zone which supports this rule.

Comment [t14]: Amended to reflect questioning from commissioners relating to efficient use, and to better align the policy with the rule structure.

Comment [LR15]: JK and LR - comfortable with this change (policy 3.2).

Comment [t16]: Policy 3.3; 3.4; 3.5; 3.6 Amended / added to reflect questioning from commissioners and in response to Te Atiawa evidence. Scope for these changes is to give partial relief to Te Atiawa submissions.

Comment [t17]: Off-set mitigation suggested by Ms Robertson & Mr Kyle in response to Commissioner Ellison question on relationship of Tangata Whenua to Waikawa. Also refer Te Atiawa evidence - Mr Ohia evidence pg 19

Comment [LR18]: JK/LR - we support the intent of these two policies (3.3 and 3.4), although the Quickfall wording of policy 3.3 goes beyond what the act requires. It would essentially result in a veto if there were any significant effects, regardless of the scale of that effect or any mitigation or off-set. The wording we have proposed provides a middle ground, where by effects of cultural values will be assessed, and provided for in any assessment. Adverse effects on cultural values will be avoided, remedied or mitigated. It is appropriate to reflect that remediation may in fact be off-site and in some form of off-set. (policies 3.3 and 3.4)

Comment [LR19]: JK/LR - we support the importance of providing for public access via marinas. However this must be balanced with the health and safety requirements the marina operator must meet. In many instances it is not safe for public to directly access the water from a marina (to swim for example). The most common forms of public access and use and provision of vehicle and foot access along the coastline, and walking along/fishing off jettys and breakwaters during the day.

<p><u>Policy 3.6 Avoid swing moorings in the marina zone except where:</u></p> <p>(i) <u>moorings are included within Appendix J, Schedule 4.1;</u> and</p> <p>(ii) <u>moorings are lawfully established by way of resource consent; and</u></p> <p>(iii) <u>no marina is being or has been constructed in the Area where the swing mooring is located.</u></p>

Comment [t20]: Changes agreed
Tony Quickfall
Louise Robertson
Paul Williams

Lionel Solly's preferred replacement wording is identified in Appendix 3 of his evidence.

The development of marina facilities should be managed in a way that avoids significant adverse effects, on the urban environment, ~~on affected parties especially kaitiaki tangata whenua~~, and on the quality of the coastal environment, such as restricted use of public space and loss of habitat. The Marina Zone provides suitable locations for marina activities and establishing such facilities in the zone is preferred over proliferation of marina development elsewhere in the coastal marine area.

Comment [LR21]: JK/LR - disagree with this change. Not necessary and over elevating tangata whenua in the process.

The staged expansion of existing marinas within the Waikawa Marina Zone provides opportunities for the provision of additional berthage capacity in a manner that enables full consideration of effects, avoids significant adverse effects on the natural character of the Sounds and responds to demand. Further consolidation of marinas at Waikawa, within the Marina Zone, assists in the avoidance of development sprawl into other, as yet undeveloped, bays within the Sounds.

Comment [t22]: Amended in response to Te Atiawa evidence (that avoidance of significant effects cannot be presumed)

Comment [LR23]: LR/JK - accept this change

Marina development also gives rise to efficiencies in the use of the coastal marine area and can assist in avoiding the sprawl of coastal occupation demand.

10.7.1.2 Methods of Implementation

Zoning	<p>The Marina Zone is identified on the planning maps within the following areas:</p> <ul style="list-style-type: none"> • Picton; • Waikawa; and • Havelock.
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Rules	<p>Plan rules provide for marina activity and activities which rely on close location to a marina, as well as marina management, subject to performance standards which avoid, mitigate or remedy adverse effects. Activities which are not necessary to support the marina operation will be considered on their merits.</p> <p>Plan rules may require, as conditions of consent to develop or alter structures, the payment of financial contributions towards landscape enhancement works in foreshore areas.</p>
Standards	Performance standards relating to discharges, noise, vehicle parking, public access, and advertising signs will be applied.
Other	The Council will liaise with marina operators in the provision of facilities for the disposal of sewage from boats.
Other	The Council will liaise with marina operators to ensure that antifouling activity is undertaken on land in a confined manner, and that any effects from marina discharges are pro-actively monitored and any breaches of conditions of consent are consistently enforced .
Information	The Council will provide information on facilities available for the collection and disposal of waste from boats.
Education	The Council will provide information and education on the best environmental practices with respect to boat maintenance, along with education programmes to advise all users of their responsibilities for navigating both within Waikawa Bay and the shipping lanes of the Inner Queen Charlotte Sound.
National/Other	The Council will implement the Marine Pollution Regulations 1998 in relation to discharges from ships and offshore installations.

Comment [LR24]: JK/LR - accept this change

Comment [t25]: Added in response to evidence of submitters relating to marina discharges

Comment [LR26]: JK/LR accept this change - see minor amendment to ensure meaning is clear and is grammatically correct

Recognised under Policy 7.1.20(c) of the Marlborough Regional Policy Statement, is the need to "...enable the safe and efficient use of marinas...". The Plan achieves this by zoning areas for marina activity in existing marina, and appropriate locations for further marina development.

Both the land and water areas of the existing marinas at Picton, Waikawa and Havelock are included in a Marina Zone. 'Coastal Marine Area' is included in this zone. Provision is made for the activities usually associated with marinas, boat storage and servicing, and boat launching.

The floating marina at Portage is of a much smaller scale than the other three marinas and has no comparable facilities. It is considered unnecessary to include the Portage marina in the Marina Zone. It will be managed using the resource consent provisions of the Act.

The Marina Zone incorporates land or structures, including those developed within the coastal marine area. It is of limited size. Given the limited size it is important that the land and water surface be dedicated to activities which rely on a marina location. These activities are therefore permitted activities. It would be an unsustainable use of the land and water space within the marinas to allow

activities to locate there which do not rely on such a location to operate. Such activities will therefore be considered as discretionary or non-complying activities.

The Plan does not identify any specific sites for further marina zones. The scale and complexity of the Marlborough Sounds together with the changing demands and design of marinas makes it impracticable to determine, in advance, appropriate locations for future marinas. Any such proposals will be considered either as applications for resource consent or as plan changes and will be assessed in terms of the relevant objectives, policies and standards of the Plan and the requirements of the Act.

The Plan is able to integrate the land and sea interface within marinas. The Marina Zone will encompass activities within the coastal marine area and on adjoining land. Marinas are important 'front doors' to the Sounds and it is important that their development is compatible with the overall townscape of the surrounding urban area and with the character of the coastal margin. Performance standards are included to address this relationship.

The Council as provider of reticulated sewage disposal facilities in the Plan area will seek to achieve a co-ordinated approach to the disposal of sewage waste from marina operations. The Council will liaise with marina operators, particularly in relation to developing and providing disposal facilities. Information and education will complement this to improve environmental practice in relation to waste disposal and boat maintenance.

Volume Two

34.0 Marina Zone

NOTE: Resource Management (Marine Pollution) Regulations 1988 introduced pursuant to sections 15A, 15B and 15C of the Act control discharges and dumping from ships. The regulations limit the nature and extent of discharges and dumping, in that part of the Marina Zone that is coastal marine area. The Council is responsible for administering and enforcing those regulations. A copy of the Resource Management (Marine Pollution) Regulations 1998 can be found in Appendix K.

34.1 Permitted Activities

The following activities shall be permitted without a resource consent where together with any relevant definition they conform to the conditions for Permitted Activities as well as the general rules:

- Ship brokering, charter boat hire services, chandlery and sail making services;
- Boat related tourist activities and tourist operator services;
- Boat storage and ship launching;
- Clearance of stormwater outfalls;
- Clubrooms for marine recreation groups;
- Commercial activities ancillary and complementary to maritime activity;
- Drilling;
- Educational facilities;
- Effluent disposal, greywater, stormwater discharges from onshore activities;
- Hazardous facilities with an effects ratio no greater than 0.075;
- Land disturbance;
- Maintenance, repair, additions and alterations to lawful structures;
- Removal or demolition of structures;
- Occupation of space by commercial and other ships, including berthage;
- Parks, reserves;
- Residential activities ancillary to marina administration;
- Service stations;
- Taking coastal water;
- Use of surfacewater by exclusive and non-exclusive activities; ~~and~~
- ~~Ship Building, repairing, fuelling and maintenance of ships; and~~
- ~~Car parking areas and the use of car parking areas for vehicle and trailer parking associated with permitted Marina Zone activities.~~
- ~~Any mooring which does not have resource consent, and which is identified in the Marina Zone Moorings Schedule, Appendix J, Schedule 4.1~~

Comment [t27]: Deletion agreed:
Tony Quickfall
Louise Robertson
Paul Williams
Lionel Solly

Conditions For Permitted Activities

34.1.1 Infrastructure and Services

34.1.1.2 Parking Space Requirements

34.1.1.2.3 If any activity is not represented in the list below, the activity closest in nature to the new activity should be used, or whether there are two or more similar activities the activity with the higher parking rate shall apply. Alternatively, application may be made to find a new rate.

Activity	Parking Spaces Required
Ship brokering and other retail activities.	One for every 50m ² of gross floor area of premises.
Boat hire, chartering.	One for every two staff members the operation is designed to cater for.
Marina	<p>One for every two berths 10% of which should be assigned to trailer parking plus</p> <p>For Marina extension "Area A" identified in Appendix J (schedule 4.2):</p> <p>One for every two swing mooring spaces (whether there are physical moorings or not) located within the Marina Management Area north of the Marina Area A.</p> <p>For Marina extension "Area B" identified in Appendix J (schedule 4.2):</p> <p>One for every two swing mooring spaces (whether there are physical moorings or not) which is:</p> <ol style="list-style-type: none"> 1. located within the adjoining Marina Management Area; and 2. within 100 metres South East and within 300 metres North East of Marina area B.

Comment [t28]: Deletion agreed:
 Tony Quickfall
 Louise Robertson
 Paul Williams
 Lionel Solly

34.1.2 Disturbance of Foreshore and Seabed, Including by the Normal Operation of Ships

34.1.2.X Removal or Demolition of Structures

Any removal or demolition of structures is a Permitted Activity provided that:

- a) The activity shall not involve any excavation of foreshore and/or seabed greater than 100m³ in volume; and
- b) The activity does not result in any discharge or deposition of contaminants into the coastal marine area.

34.1.3.5 Lighting

34.1.3.5.1 All exterior lighting shall be shielded from above and directed away from adjacent properties and legal roads so as to avoid any adverse effects on the neighbourhood, including any overlooking properties, and/or traffic safety.

Comment [t29]: Deletion agreed - refer new rule 34.4.2.12.2
Tony Quickfall
Louise Robertson
Paul Williams
Lionel Solly

~~34.1.3.11 Swing Moorings located within the Marina Zone~~

~~34.1.3.11.1 Placement, use (including occupation of the coastal marine area) and maintenance of swing moorings within the Marina Zone Areas A or B (identified in the moorings schedule, Appendix J schedule 4.1) shall be a permitted activity subject to the following conditions:~~

Comment [t30]: Deletion Tony Quickfall
Louise Robertson
Paul Williams
Lionel Solly

~~a) A lawfully established Bylaw is in place, and the Mooring has a current Mooring Licence to place and use the specified swing mooring issued by the person appointed under the relevant Bylaw to authorise Mooring Licences; and~~

~~b) No resource consent has been granted for marina development within Marina Zone Areas A or B (Appendix J, Schedule 4.2).~~

~~NOTE: If no relevant Bylaw is in place, rule 34.3 applies.~~

~~34.1.3.11.2 Where resource consent has been granted for marina development within Marina Zone Areas A or B, any moorings identified in the Marina Zone moorings schedule (Appendix J, Schedule 4.1) are permitted for a period of not longer than 6 calendar months following the grant of consent.~~

~~NOTE: refer to rule 34.5 (non-complying activities). Despite any Mooring License under a lawfully established bylaw, on the expiry of the 6 month period in rule 34.1.3.11.2, any scheduled mooring in Marina Zone Areas A or B which does not have resource consent becomes a non-complying activity.~~

34.1.3.6 Maximum Building Height Buildings

The maximum permitted height of any building shall be 10 metres, with the exception of buildings within Marina Zone Area A or B (Map 62) which shall be limited to:

Comment [t31]: Changes agreed landscape architects
Agreed planners
Tony Quickfall
Paul Williams
Lionel Solly
Louise Robertson

- a) 6 metres in height;
- b) 50m² in ground floor area; and
- c) only one building in each of Marina Zones A and B shall be a permitted activity.

Comment [Lk32]: Changes proposed and agreed
MDC landscape architect
PMNZ landscape architects

Changes agreed by planners
Tony Quickfall
Paul Williams
Lionel Solly
Louise Robertson

34.1.3.7 Building Setbacks

- a) Minimum building setback from road boundaries shall be 6 metres;
- b) Minimum building setback from an Urban Residential Zone boundary shall be 6 metres; and
- c) Minimum building setback from a Town Commercial Zone boundary shall be 3 metres.
- d) Clause a) does not apply to buildings within Marina Zone Areas A or B (Schedule J).

Comment [t33]: Changes agreed:
Tony Quickfall
Paul Williams
Lionel Solly
Louise Robertson

34.3 Limited Discretionary Activities

Drafting note - renumber existing rules accordingly

34.3.5 Marina Zone Swing Moorings

~~Where not provided as a permitted activity under Rule 34.1 and conditions 34.1.3-11, the placement and use (including occupation) of swing moorings scheduled in Appendix J, Schedule 4.1, located within Marina Zone Areas A or B, is a limited discretionary activity subject to the following conditions.~~

Comment [t34]: Changes to 34.3 all agreed
Tony Quickfall
Louise Robertson
Paul Williams
Lionel Solly

~~34.3.5.1.1 The mooring is not a non-complying activity (refer rule 34.5)~~

34.3.5.2 Matters to which Council has restricted the exercise of its discretion

- a) Location within Marina Zone area A or B (Appendix J, Schedule 4); and
- b) The type and specification of mooring including the swing arc; and
- c) The availability of space within Marina Zone area A or B; and
- d) Reservation of space within the Mooring Management Areas for the relocation of all moorings from Marina Zone Areas A and B; and
- e) The duration, expiry and any renewal conditions of consent. **Note:** a condition of consent will be imposed requiring the consent shall expire 6 months following the granting of any resource consent for marina development within Marina Zone Areas A (for a mooring located within Area A) or B (for a mooring located within Area B) identified in Appendix J.

34.3.5.3 Applications in accordance with Rule 34.3.5 will be considered without public notification and may be considered without either the service of notice or without

~~the need to obtain written approval of affected persons in accordance with the Resource Management Act.~~

Comment [LR35]: JK/LR - accept this change, although may mean affected parties are identified which could create an arduous consent process.

Application must be made for a Discretionary Activity

34.4 Discretionary Activities and Where Appropriate Restricted Coastal Activities

Application must be made for a Discretionary Activity and where indicated a Restricted Coastal Activity for the following listed activities. ~~Except for restricted coastal activities, applications made for discretionary activities will not require public notification.~~

- Activities listed as Permitted or Controlled Activities which do not comply with standards and/or conditions or with the provisions for minor non compliance dealt with as Limited Discretionary Activities;
- Any activity listed as a Permitted Activity and either adversely affecting or being affected by any hazard area identified on the Planning Maps as a hazardous area and/or listed in the Hazards Register;
- **Marinas;**
- Discharges to the Coastal Marine Area;
- Discharges;
- Occupation of the coastal marine area;
- Hazardous facilities with an effects ratio greater than 0.075;
- Disturbance of foreshore and seabed, including removal of sand, shingle or shell or other material;
- New or extended seabed reclamation;
- Reclamations;
- Structures in the coastal marine area more or less parallel to mean high water springs;
- Structures in the coastal marine area oblique or perpendicular to mean high water springs;
- Structures in the coastal marine area used in the petroleum and chemical industry; and
- Structures which impound or effectively contain the coastal marine area.

Comment [t36]: Insertion not agreed
Lionel Solly (not convinced of the practical effect of including "marinas" as a discretionary activity in rule 34.4

Agreed
Tony Quickfall
Paul Williams
Louise Robertson

34.4.1 General Assessment Criteria

In addition to any specific standards set out in Rule 34.4.2 the General Assessment Criteria set out below shall be applied to Discretionary and Restricted Coastal Activities.

34.4.1.1.5 The likely effects of the proposal on:

34.4.1.1.5.4 Natural and physical resources so that any proposal:

- a) Complements any building or other feature constructed by people in the locality which contributes to the character of the locality;
- b) Maintains the future use potential of any renewable resource;
- c) Should not have an adverse effect on the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga or any historic place or archaeological site;
- d) Does not reduce water quality beyond a zone of reasonable mixing; ~~and~~
- e) Does not increase any risk from natural hazards;
- ~~f) Will result in the efficient use of natural and physical resources including existing infrastructure with regard to the expansion of marinas;~~
- ~~and~~
- ~~g) Is considered in terms of any positive effects that may be generated by the proposal, including the efficiency of storing vessels within purpose built and serviced marina facilities when compared with other forms of mooring.~~

34.4.2 Particular Criteria and Standards Applicable to Listed Discretionary Activities

The criteria specified for any particular discretionary activities as listed below shall be considered in addition to the general assessment criteria set out in Rule 34.4.1

34.4.2.12 Marinas

~~34.4.2.12.1 Buildings located within the Marina Zones, areas A and B identified in Appendix J, Schedule 4.2, shall meet the following standards:~~

- ~~a) Buildings, other than toilet blocks, are discretionary activities. For avoidance of doubt, toilet blocks are permitted.~~
- ~~b) Toilet blocks shall not exceed 50m² in area.~~
- ~~c) No building shall exceed a maximum height of 6m.~~

~~34.4.2.12.2 Marina development within Marina Zone areas A and B identified in Appendix J, Schedule 4.2, shall generally accord with the Outline Development Plan in Appendix J Schedule 4.2, and shall comply with include the following:~~

- ~~a) A landscape plan showing a minimum of 5% landscaping on any reclamation or breakwater~~
- ~~b) car park layout and design (with provision for landscaping)~~
- ~~c) public beach and amenity reinstatement identified in, Appendix J, Schedule 4.2.~~

a) All exterior lighting shall be shielded when viewed from above and directed away from adjacent properties and legal roads

Comment [t37]: Insertion agreed
Louise Robertson
Paul Williams
Tony Quickfall

Lionel Solly generally agrees, but is not convinced of the practical effect of including "marinas" as a discretionary activity in rule 34.4

Comment [t38]: Deletion Agreed:
Tony Quickfall
Paul Williams
Lionel Solly
Louise Robertson

Comment [t39]: Changes all agreed, landscape architects and planners:
Tony Quickfall
Paul Williams
Lionel Solly
Louise Robertson

Comment [t40]: Changes b), c) & d) agreed
MDC; PMNZ

34.4.2.12.31 There shall be no marina construction development within Area B (shown in Appendix J, Schedule 4.2 on planning map 62) until Area A has been fully developed, and a minimum of 90% of water berths within Area A are a minimum of 90% occupied are allocated, to berth holders other than the marina owner. This rule does not apply in the following circumstances:

a) Physical development of the full area of Marina Area A cannot be has not been achieved due to geotechnical or other physical constraints rendering such development impracticable; or

b) Resource consent has been declined for part or all of the full development of Marina Area A, and a minimum of 90% of water berths within the any consented area of Area A are a minimum of 90% occupied allocated to berth holders other than the marina owner.

34.4.2.12.4 Assessment Criteria - Marinas

The following matters shall be assessed as part of any resource consent application for a marina, in addition to other criteria where applicable under 34.4.1 and 34.4.2.

a) Any effects on swing moorings which were lawfully established on or before 17th June 2010.

~~b) The bulk, location and external appearance of buildings.~~

c) The extent of clearance of coastal indigenous vegetation and any proposed reinstatement.

~~d) Degree of adherence to the Outline Development Plan in Appendix J, Schedule 4.2.~~

d) Any navigation aids and signage.

e) Provision for public access and signage, and vehicle access for adjoining mooring holders.

~~f) Landscaping proposed to ensure the integration of assist the marina to blend with the surrounding environment.~~

g) Carparking provided and layout of vehicle access including

i) sufficient carparks for marina users. Rule 34.1.1.2.3 will be used to determine to appropriate carpark ratios;

ii) public vehicle access (including public car parking) and foot access to the northern end of the north-western wet berth area;

iii) carparks for use by swing moorings within the Northwest Mooring Management Area at a minimum rate of 1 carpark space per 3 swing moorings.

~~h) Provision for the reinstatement of a public beach that provides the equivalent or enhanced level of size, accessibility and amenity as the existing beach, as far as is technically possible; to be located at and amenity reinstatement in the north west end of Marina Area A (Appendix J).~~

i) landscaping proposed to ensure the integration of the marina with the surrounding environment. A landscape plan prepared by a qualified landscape architect shall be submitted to the Council for approval

Comment [t41]: Changes agreed
Tony Quickfall
Paul Williams
Louise Robertson
Lionel Solly (agrees if marinas remains a discretionary activity)

Comment [t42]: Added in response to commissioner questioning and Mr Batchelor evidence, to avoid PMNZ allocating all berths to itself in order to facilitate development of Area B

Comment [LR43]: Disagree with this change. 90% is a very high level of allocation in any case. PMNZ commonly hold berths for various reasons, and often have short term leases for some berths. The bottom line is that they would not wish to proceed with a new marina unless they felt there was sufficient demand for berths, and that it was economically viable to do so. We consider that who the party is that each berth has been allocated to is not relevant.

Comment [t44]: Commissioner Maassen question re "practicable" geotech constraints. TQ recommends no changes, "practicable" introduces some uncertainty and open to interpretation.

Comment [LR45]: JK/LR - adding practicable ensures a reasonable approach is taken, as noted by Commissioner Maassen.

Comment [LR46]: JK/LR - disagree with this change. See comment two above.

Comment [t47]: TQ note not for final version - Deleted, duplication

Comment [t48]: Change added in response to submitter evidence relating to public parking

Comment [LR49]: JK/LR - We do not accept the Quickfall change. It is appropriate to provide vehicle and foot access along the coast to the north of the north west marina extension. However, it is not appropriate to give an expectation that public carparking in this location will be provided. Neither traffic experts recommended this, or considered public carpark (... [1])

Comment [BF50]: Change (h) proposed & agreed by MDC landscape architect and PMNZ landscape architects
Agreed by planners (... [2])

demonstrating how the development shall be integrated into the surrounding environment. The landscape plan shall include:

- Planting areas that include robust locally sourced coastal tree and shrub species.
- All hard landscape areas and landscape fixtures (including colours and materials).
- Landscape management plan incorporating landscape specifications and maintenance measures.

j) Any adverse effects on tangata whenua and kaitiaki iwi in respect of ancestral lands, water, sites, waahi tapu and other taonga or any historic place or archaeological site, including any provision for off-set mitigation of effects.

Any adverse effects on tangata whenua in respect of access to and habitat for mahinga kai (cultural harvesting), waahi tapu and other taonga or any historic place or archaeological site, including any provision for off-set mitigation of effects.

k) Any positive effects that may be generated by the proposal, including the efficiency of storing vessels within purpose built and serviced marina facilities when compared with other forms of mooring.

34.5 Non-Complying Activities

- Any activity that does not comply with discretionary activity standards listed in Rule 34.4.2.
- Any activity other than a Prohibited Activity which is neither a Permitted Activity, Controlled Activity, Limited Discretionary Activity nor a Discretionary Activity shall be deemed to be a Non-Complying Activity.
- Any activity involving the introduction of any exotic plant species to the coastal marine area is a Non-Complying Activity that is a Restricted Coastal Activity.
- Any Scheduled mooring identified in Appendix J (Schedule 4.1), at any time after 6 calendar months following the grant of consent for any development in Marina Zone Areas A or B (Appendix J, Schedule 4.2).

Comment [t51]: Change (i) agreed to be landscape architects and planners:
Tony Quickfall
Paul Williams
Lionel Solly (not necessary)
Louise Robertson

Comment [t52]: J added in response to questions from commissioner Maasen and Te Atiawa evidence.

Comment [t53]: Off-set mitigation suggested by Ms Robertson & Mr Kyle in response to Commissioner Ellison question on relationship of Tangata Whenua to Waikawa. Also refer Te Atiawa evidence - Mr Ohia evidence pg 19

Comment [LR54]: JK/LR - While we support the general intention of Mr Quickfalls assessment criteria j), we see benefit in being as specific as possible about the potential cultural effects that may occur from a marina development. This should serve to focus any resource consent application for a marina, rather than just expecting a general assessment of "cultural effects", at a more Part II level.

Comment [t55]: Changes agreed
Tony Quickfall
Louise Robertson

Not agreed (unnecessary)
Paul Williams
Lionel Solly

Comment [t56]: Agreed
Tony Quickfall
Paul Williams
Lionel Solly
Louise Robertson

35.0 COASTAL MARINE ZONES ONE AND TWO

NOTE: Resource Management (Marine Pollution) Regulations 1998 introduced pursuant to sections 15A, 15B and 15C of the Resource Management Act 1991 control discharges and dumping from ships. The regulations limit the nature and extent of discharges and dumping, in that part of Coastal Marine Zones 1 and 2 that is coastal marine area. The Council is responsible for administering and enforcing these regulations. A copy of the Resource Management (Marine Pollution) Regulations 1998 can be found in Appendix K.

35.1 Permitted Activities

The following activities shall be permitted without a resource consent where together with any relevant definition they conform to the conditions for Permitted Activities as well as the general rules:

- Beach grooming and beach re-contouring;
- Burial of dead marine mammals;
- Clearance of stormwater outfalls;
- Discharges from ships;
- Erection and placement of public information signs;
- Erection or placement of temporary structures;
- Harvesting of marine farming produce from marine farms previously authorised by a current Coastal Permit (pursuant to the Resource Management Act 1991) or current Marine Farm Lease or Licence (pursuant to the Marine Farming Act 1971) applied for prior to 1 August 1996, including the taking and discharging of coastal water and discharge of biodegradable and organic waste matter;
- Any statutorily established scallop enhancement programme involving distribution of scallop spat to the seabed.
- Maintenance, repair, minor extensions, additions and alteration to structures;

- Disturbance of foreshore and seabed;
- Oil spill clean up in accordance with a national or regional oil spill contingency plan;
- Parks, reserves, marine reserves, taiapure, mahinga maataitai and maataitai reserves;
- Pest management carried out in accordance with a national or regional pest strategy;
- Placement, operation and maintenance of equipment used for monitoring purposes;
- Recreational activity;
- Removal or demolition of structures;
- River and stream mouth cutting;
- Stormwater discharge;
- Taking and discharge of coastal water;
- Taking and use of coastal water by ships;
- Use of surface water by ships
- Vegetation clearance;
- The placement and use (including occupation and maintenance) of swing moorings within Mooring Management Areas; and
- The placement and use (including occupation and maintenance) of swing moorings for Waka in a defined Waka Mooring Management Area.

Conditions for Permitted Activities

35.1.2 Specific Conditions

35.1.2.13 Swing Moorings within Mooring Management Areas

Placement, use (including occupation of the coastal marine area) and maintenance of swing moorings within a Mooring Management Area or Waka swing moorings within the Waka Mooring Management Area shall be a permitted activity subject to the following condition:

a) A lawfully established Bylaw is in place, and the Mooring has a current Mooring Licence to place and use the specified swing mooring issued by the person appointed under the relevant Bylaw to authorise Mooring Licences; and

b) Where the mooring is not the relocation of a scheduled mooring from Marina Area A or B identified in Appendix J, Schedule 4.1, there is sufficient mooring space available to provide for the relocation of all scheduled moorings in schedule 4.1.

35.1.2.14 Swing Moorings within Waka Mooring Management Areas

Placement, use (including occupation of the coastal marina area) and maintenance of swing moorings for Waka in Waka Mooring Management Areas shall be a permitted activity subject to the following conditions:

a) A lawfully established Bylaw is in place, and the Mooring has a current Mooring Licence to place and use the specified swing mooring issued by the person appointed under the relevant Bylaw to authorise Mooring Licences.

NOTE: If no relevant Bylaw is in place, rules 35.3.2 and 35.3.3 applies.

35.3 Limited Discretionary Activities

35.3.2 Where not provided as a permitted activity under Rule 35.1 and condition 35.1.2.13, the placement and use (including occupation) of swing moorings within a Mooring Management Area or Waka swing moorings within the Waka Mooring Management Area:

35.2.3 Applications under rule 35.3.2 for moorings within each mooring management, including renewal of consents, shall be processed and heard together, in accordance with section 165D of the Resource Management Act.

35.3.2.1 Limits to the Council's Discretion

35.3.2.1.1 In the case described in 35.3.2, Council's discretion shall be limited to the following matters:

a) Location within a Mooring Management Area or Waka Mooring Management Area ; and

Comment [t57]: Agreed:
Tony Quickfall
Paul Williams
Louise Robertson

Not agreed
Lionel Solly (should be broadened to all moorings to be relocated)

Comment [t58]: Deletion agreed:
Tony Quickfall
Paul Williams
Louise Robertson
Lionel Solly

Comment [t59]: Possible new rule in response to a concerns raised by Commissioner Rennie re efficient use of space. Also refer RMA section 165I. My reading of these sections is they apply to coastal allocation outside Aquaculture Management Areas.

Note - this change is not recommended as a new rule for reasons of complicating application processes, but is presented as a s165D possible mechanism for coordinated allocation of moorings. MBMA advise this would be difficult to implement in practical terms.

Comment [LR60]: JK/LR - disagree with this provision. Unrealistic to achieve and punishes those who are willing to participate unnecessarily.

- b) ~~The type and specification of mooring including the swing arc; and~~
- c) ~~The availability of space within the Mooring Management Area or Waka Mooring Management Area; and~~
- d) ~~Reservation of space for the relocation of all scheduled moorings from Marina Areas A and B (Schedule J, Appendix 4); and~~
- e) ~~The ability of the activity to comply with the Coastal Marine zone permitted activity noise standard, being Rule 35.1.1.4.1.~~

~~35.3.2.1.2 Applications in accordance with Rule 35.3.2 will be considered without public notification and may be considered or without either the service of notice, or and without the need to obtain written approval of affected persons in accordance with section 95A of the Resource Management Act.~~

~~35.3.3 Where not provided as a permitted activity under Rule 35.1 and condition 35.1.2.14, the placement and use (including occupation) of swing moorings for Waka in a defined Waka Mooring Management Area.~~

~~35.3.3.1 Limits to the Council's Discretion~~

~~35.3.3.1.1 In the case described in 35.3.3, Councils discretion shall be limited to the following matters:~~

- a) ~~Location within a Waka Mooring Management Area; and~~
- b) ~~The type and specification of mooring including swing arc; and~~
- c) ~~The availability of space within the Waka Mooring Management Area; and~~
- d) ~~The ability of the activity to comply with the Coastal Marine zone permitted activity noise standard, being Rule 35.1.1.4.1.~~

~~35.3.3.1.2 Applications in accordance with Rule 35.3.3 will be considered without public notification or without the service of notice and without the need to obtain written approval of affected persons in accordance with section 95A of the Act.~~

35.4 Discretionary Activities and Where Applicable

Restricted Coastal Activities

Application must be made for a Discretionary Activity and where indicated a Restricted Coastal Activity for the following:

- Any activity listed as a Permitted Activity and either adversely affecting or being affected by any hazard area identified on the Planning Maps as a hazardous area or listed in the Hazards Register;

Comment [t61]: Deletions agreed
Tony Quickfall
Paul Williams
Louise Robertson
Lionel Solly

- Activities listed as Permitted or Controlled Activities, which do not comply with the Standards specified for those activities, other than marine farms specified as Limited Discretionary Activities in Rule 35.3.1, or Swing Moorings specified as Limited Discretionary Activities in Rules 35.3.2 or 35.3.3.
- Commercial activities:
- Discharge of human sewage;
- Discharges to air;
- Discharges to water;
- Occupation of the coastal marine area, excluding swing moorings in Mooring Management Areas or Waka Mooring Management Areas;
- Structures in the coastal marine area used in the petroleum and chemical industry;
- Disturbance of foreshore and/or seabed, including removal of sand, shingle, shell or other material;
- Marine farms in Coastal Marine Zone Two complying with the standards specified in Rule 35.4.2.9 other than marine farms specified as Controlled Activities in Rule 35.2.5, or Limited Discretionary Activities in Rule 35.3.1;
- Marine Farms in Coastal Marine Zone 1 which are listed in Appendix D2;
- Placement of swing moorings outside Waikawa Bay;
- The renewal of resource consents for existing consented swing moorings which were consented prior to this rule becoming operative, and which are located within Waikawa Bay and outside of the Mooring Management Areas;
- Reclamation;
- Structures in the coastal marine area more or less parallel to mean high water springs;
- Structures in the coastal marine area oblique or perpendicular to mean high water springs;
- Structures which impound or effectively contain the coastal marine area; and
- Use of surface water within the National Transportation Route

Comment [t62]: Agreed:
Tony Quickfall
Paul Williams
Louise Robertson

Not agreed
Lionel Solly (change to "applied for" or preferred alternative is to list those moorings which are to be treated as discretionary activities on renewal in an appendix or schedule. ON this change, this bullet point would read "swing moorings listed in Appendix xxx / schedule xxx")

35.4.2 Definition of Specifications and Information Requirements and Assessment Criteria

35.4.2.8 Placement of Swing Moorings

35.4.2.8.1 Assessment Criteria

- a) The effect of permanent moorings on the ability of visiting ships to casually anchor in sheltered positions;
- b) The effect of permanent moorings on other Permitted and Discretionary Activities;
- c) The capacity of an area to absorb more moorings; ~~including the reservation of space for the relocation of Scheduled moorings from Marina Areas A and B (Appendix J, Schedule 4.1);~~ and
- d) The effect on utilities including subaqueous cable.

Comment [t63]: Deletion agreed:
Tony Quickfall
Paul Williams
Louise Robertson
Lionel Solly

35.4.2.8.2 Standards and Terms

- a) The mooring buoy must be of sufficient size so that it remains afloat and is clearly visible at all times;
- b) The name of the owners and the registration number issued by the Council must be clearly marked on the buoy at all times;
- c) The permit holder shall be responsible at all times for the maintenance of the swing mooring;
- d) All mooring blocks shall be lowered to the seabed by a crane or winch;
- e) The mooring shall not be used by another ship of greater weight or length than the ship for which the mooring was approved;
- f) Confirmation of the location of the mooring to be supplied to the Council within 48 hours of its placement; and
- g) The permit holder will be required to remove the swing mooring at the expiry of the resource consent or sooner if the swing mooring is no longer

required or if the consent is cancelled in accordance with section 126 of the Act.

35.5 Non-Complying Activities and Where Applicable Restricted Coastal Activities

- Any activity other than a Prohibited Activity which is neither a Permitted, Controlled, or Discretionary and Restricted Coastal Activity shall be deemed to be a Non-Complying Activity;
- Deliberate introduction of exotic or introduced plants into the coastal marine area;
- Depositing material on the foreshore or seabed;
- Discharges to the coastal marine area;
- Marine farms within Coastal Marine Zone Two other than marine farms specified as Controlled Activities in Rule 35.2.5 or Limited Discretionary Activities in Rule 35.3.1 or Discretionary Activities pursuant to Rule 35.4:
 - a) inside a line drawn 50 metres from mean low water mark at right angles to a line normal to the nearest part of mean high water mark; or
 - b) beyond a line drawn 200 metres from mean low water, at right angles to a line normal to the nearest part of mean high water mark (refer Figure 35.1: Measurement of Marine Farm from Shore).
- Residential Activity;
- Structures in the coastal marine area more or less parallel to mean high water springs;
- Structures in the coastal marine area oblique or perpendicular to mean high water springs;
- Structures in the coastal marine area used in the petroleum and chemical industry;
- Structures which impound or effectively contain the coastal marine area;
~~and~~
- **The placement and use (including the occupation of the coastal marine area) of moorings within Waikawa Bay, which were not consented prior to this rule becoming operative and which are located outside a Mooring Management Area or Waka Mooring Management Area; and**

Comment [t64]: Agreed:
Tony Quickfall
Paul Williams
Louise Robertson

Not agreed
Lionel Solly (change to "applied for" or preferred alternative is to list those moorings which are to be treated as discretionary activities on renewal in an appendix or schedule. ON this change, this bullet point would read " *the placement and use of swing moorings within Waikawa Bay that are located outside a Mooring Management Area or Waka Mooring Management area, other than those listed in [inset reference to new appendix for moorings to be treated as discretionary activities on renewal]* "

- Subdivision.
- Marinas within Waikawa Bay which are located outside the Waikawa Marina Zone.

Comment [t65]: New control making marinas outside marina zone non-complying - response to commissioner Rennie question, commissioner Ellison question, Mr. McNabb evidence, Mr. Culbert evidence, and Te Atiawa submissions.

Comment [LR66]: JK/LR - yes accept this change

Appendix J

4.1 Marina Zone -Moorings Schedule

Consists of the following Mooring Numbers as issued by the Marlborough District Council:

154	157	158	389	2219	2294	2325	2327	2328	2333	2334	2383	2392
2495	2496	2499	2500	2502	2525	2530	2531	2535	2541	2542	2544	2557
2558	2559	2560	2561	2562	2563	2564	2566	2574	2582	2584	2588	2605
2609	2612	2613	2614	2625	2627	2633	2635	2636	2667	2684	2721	2730
2759	2775	2782	2826	2911	2984							

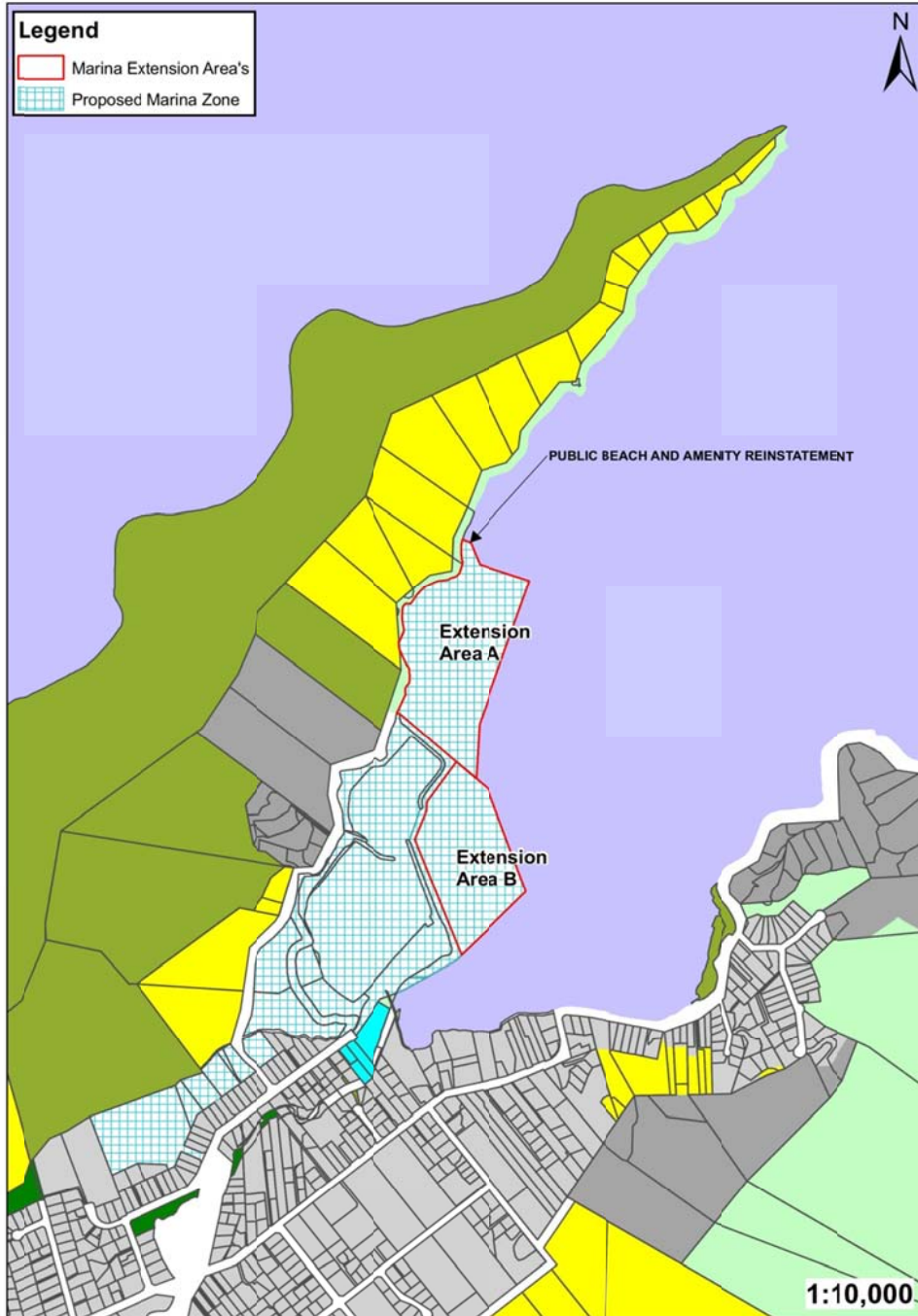
Comment [t67]: Agreed:
Tony Quickfall
Paul Williams
Louise Robertson

Not agreed
Lionel Solly (schedule should include all moorings to be relocated, not just those in the Marina Zone)

4.2 ~~Outline Development Plan~~ Marina Areas A and B Staging Plan

Insert amended map (overleaf) to identify areas A and B but with no underlying marina structure for these areas

Comment [t68]: Agreed
Tony Quickfall
Paul Williams
Louise Robertson
Lionel Solly

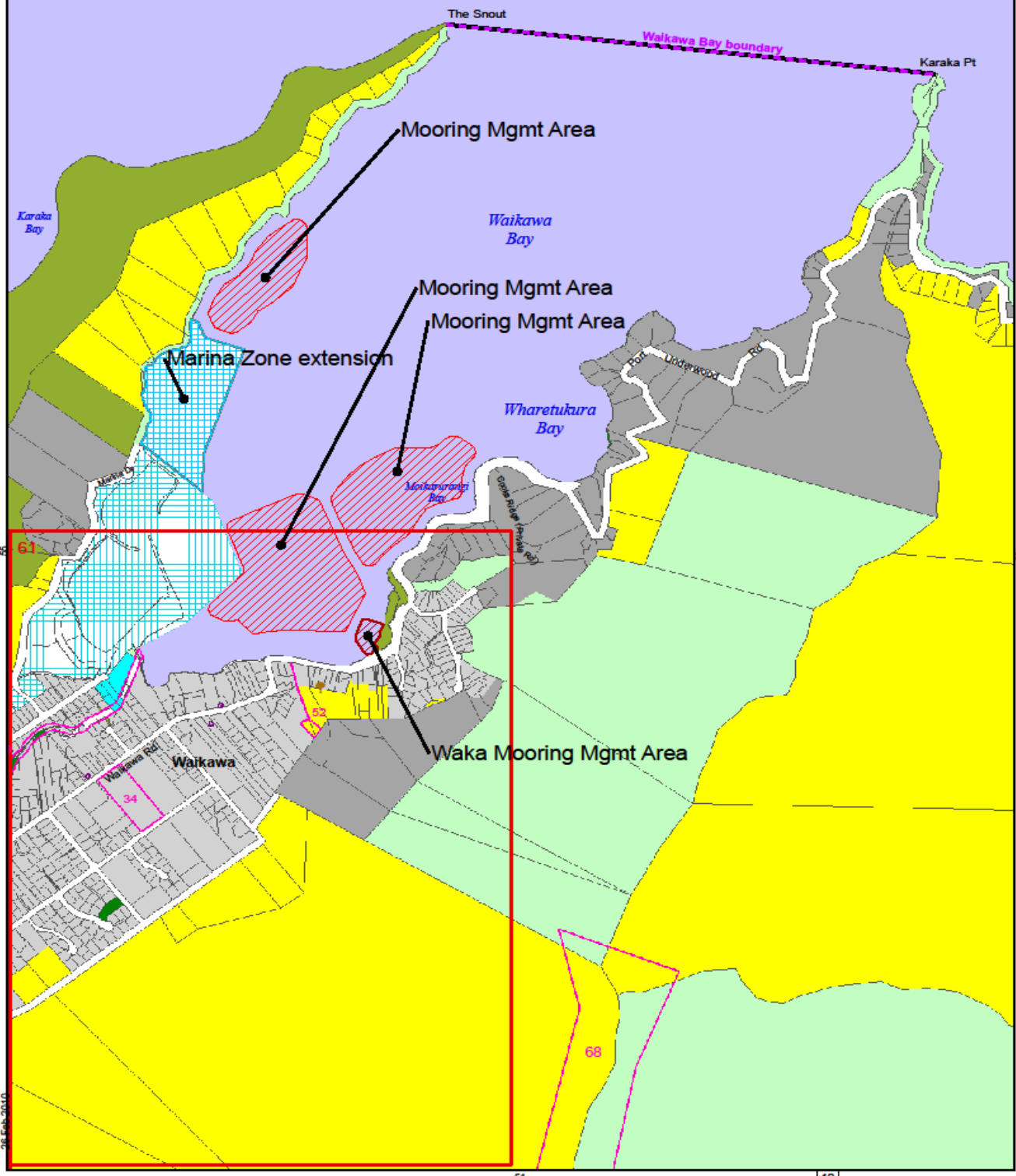


VOLUME 3 - Maps

The proposed Planning Maps changes shown below include the following changes:

1. The extension to the Marina Zone;
2. The inclusion of three Mooring Management Areas;
3. The inclusion of one Waka Mooring Management Area; and
4. A line extending from the Snout to Karaka Point to define the 'Waikawa Bay' area

Waikawa Bay Proposed Plan Change
Date: 9-6-2010 "DRAFT PLAN MAP"



Scale: 1:10000
 Original drawn scale for printing at A3

Waikawa Bay

40
55 63
51

Map62

The changes shown above also affect Planning Maps 61, 51 and 5.

JK/LR - We do not accept the Quickfall change. It is appropriate to provide vehicle and foot access along the coast to the north of the north west marina extension. However, it is not appropriate to give an expectation that public carparking in this location will be provided. Neither traffic experts recommended this, or considered public carparking an issue in this case. We note that carparking could be provided by the applicant as mitigation of access effects at the resource consent stage.

Change (h) proposed & agreed by MDC landscape architect and
PMNZ landscape architects

Agreed by planners

Tony Quickfall

Louise Robertson

Not agreed to:

Paul Williams

Lionel Solly (believe it should be a standard)