

Discussion:

The first thing to determine is “what is changing?” On my analysis, there are four key changes arising from the plan change:

- No proposed increase in additional moorings over total existing.
- reduced overlap between some existing moorings.
- Relocation of most existing moorings.
- New marina extension.

The changes in visual effects relating to the swing moorings will be minimal. I do not consider there will be any adverse visual effects from the new proposed MMAs and the mooring management regime, and I consider that boats moored on the water are an existing and expected part of the character and amenity associated with Waikawa Bay and the wider sounds.

The North East marina extension is already zoned, but it is undeveloped. Visual effects are able to be assessed through a separate consent process.

The proposed North West extension is the only substantial new change in terms of visual effects and amenity. It is worth repeating that this zoning does not allow the marina to develop as a fait accompli. Under the both existing rules and the proposal changes, any new marina development is still required to go through a discretionary resource consent process where amenity controls can be imposed.

I refer to the Appendix F of the application (Boffa Miskell Landscape report) and the independent landscape report commissioned by the Council (Liz Kidson Attachment A). The Boffa Miskell report concludes that at full development, *“the change would not be significant in relation to the existing natural character and ongoing development of the bay. Similarly the visual effects resulting from the plan change would be less than minor.”*

Liz Kidson, in the Council-commissioned peer review of the Boffa Miskell, and analysis of submissions concerned with visual and landscape effects, makes the following conclusions:

I consider that the findings of the landscape report are consistent with my findings in general and the conclusions reached relating to the visual effects are a good indication of the landscape effects in this regard.

I consider that the proposed level of development can be absorbed in to this area of Waikawa Bay, if additional planning measures are put in place to prevent potential adverse effects.

The landscape review makes the following recommendations (in italics). My comments follow each recommendation:

1. *Buildings other than toilet blocks associated with parking should at first be permitted within the more extensive land area within the existing marina zone at the head of Waikawa Bay. Any buildings proposed in the north west marina extension should be limited in size to single storey (5-6m in height) and should have controls relating to bulk, location and external appearance.*

My Comment: The only existing controls on buildings in the Marina Zone are height, which is limited to 10m, and a 6m setback from road boundaries, Urban Residential Zone Boundaries, and Town Commercial Zone boundaries. There is no limit on building coverage within the Marina Zone.

The first part of the landscape recommendation would mean that buildings, other than toilet blocks, become discretionary in the Marina extension. The second part would see bulk and location controls including a lower height limit.

Submitters' concerns in terms of visual effect of marina buildings are valid, given the very limited controls on height and setback. I therefore endorse recommendation 1 of the Kidson report. I consider that the 5-6m height limit should also apply with the North East extension to give additional relief to the submitters' concerns.

The controls on bulk, location and external appearance recommended in the report would be best included as assessment matters for marina development, rather than specific standards needing to be met. This allow for greater flexibility in design as well as consideration of visual effects.

I agree it is appropriate to include a control on building size for toilets, since they are recommended to be permitted activities. I suggest a size of 50m² will be sufficient for a functional toilet block (which could include showers), while mitigating visual effects which could arise from a larger building.

2. *Lighting associated with the marina zone should be capped to prevent unnecessary pollution of the night sky.*

My Comment: Although there are lux limits in the Marina Zone, there is no requirement to cap (to minimize light spill). Since submitters will view the Marina extension from above sea / ground level, I endorse this recommendation and recommend that lighting be shielded from above.

3. *Consideration should be given to the 6m setback rule and outdoor storage rule regarding buildings along the narrow strip of land associated with the north west marina extension to consider whether it is appropriate to compromise the adjoining native bush in order to achieve these rules.*

My Comment: Recommendation 3. refers to a 6m building setback from road boundaries and zone boundaries, and controls around outdoor storage. If recommendation 1 of the Kidson report is adopted (buildings in the marina extension other than toilets become discretionary) then recommendation 3 will be given effect to through the consent process for new buildings.

Recommendations 1 and 2 (and 3) of the Kidson report can be easily incorporated into the plan change and will give partial relief to submitters. These should be adopted.

4. *It would be preferable to ensure a coastal esplanade strip is maintained (at least 5m at the narrowest point) within the adjoining conservation zone that runs on the landward side of the northwest marina extension.*

My Comment: This recommendation is desirable, however no submissions were received specifically on the Conservation Zone or seeking amendments to boundaries of either the Conservation Zone or the proposed Marina Zone.

Plan Change 21 does include some encroachment into the Conservation Zone and replacement of parts of the Conservation Zone with the proposed North West Marina Zone. However, nearly all of the Conservation Zone will be retained in a format which allows a 5m strip.

The only exception is an area north west of the existing marina development where it appears from the planning maps that the MHWS encroaches virtually right up to private property, with no existing Conservation Zone. This is an existing situation.

For these reasons, although the landscape recommendation is desirable, I do not recommend any changes to the Conservation Zone boundaries.

5. *Limiting the extent of encroachment of the marina into this area of native bush along the foreshore (especially with regard to the remnant Beech and broadleaf forests) would be preferred – especially as the indicative marina layout shows that the extent zoned is not required for a successful marina design.*
6. *If landscaping along the breakwaters is considered viable, then more detail should be given in the form of recommendations on the method (i.e rules or assessment matters) to ensure this eventuates and is successful. A similar amount of planting to that along the road reserve (5% of reclaimed areas) would be appropriate. The use of locally sourced robust coastal species should be emphasised. Any planting plan should include planting methodology and be approved by the Council.*
7. *A planning mechanism is required to ensure that the suggested beach shown in Appendix L of the planners report - the “public beach and amenity reinstatement” does not fall by the wayside. I would suggest that this is reinstated at the same time as the outer breakwater and adjoining road is formed, and parameters regarding its general size/appearance are included as assessment matters.*

My Comment: Recommendations 5, 6, and 7 would give partial relief to submitters. Since any marina development (structures) is a discretionary activity, these recommendations could be easily incorporated into the plan change. I recommended adopting these in the form of specific controls for discretionary activities (marina) or as specific assessment matters.

In terms of recommendation 7, I recommend adopting the indicative layout plan (Appendix L of the plan change application, drawn by International Marine Consultants) as an Outline Development Plan in Appendix J of the MSRMP. The layout plan was submitted as part of the plan change, and although it was not sought to be included in any changes, it does form part of the plan change documentation. Adopting this as an outline development plan would allow marina development to proceed “generally in accordance”, which would provide greater certainty to submitters, Council processing staff, and Port Marlborough. Use of the “generally in accordance” principle allow some flexibility for design changes, without the uncertainty of a complete departure from what has been proposed. The use of the Outline Development Plan meets the section 32 analysis, particularly in terms of being an effective and appropriate method, and it allows cross-referencing to other recommendations relating to parking and landscaping.

In summary, I endorse recommendations 1,2,3,5,6,7 of the landscape review. I consider these recommendations are within the scope of submissions, and that they meet the requirements of section 32. I do not consider recommendation 4 of the Kidson report is within scope.

The submissions by John & Kerry Scheerhoorn (23:417), Peter Thomas (31:438), Scheerhoorn Family Trust (24:418) and Waikawa Ratepayers and Residents Association (25:458) seeking relinquishment of the North West marina zone have some merit. The basis for their opposition is landscape and visual

effects.

I do not agree with these submitters that there will be significant landscape and visual effects (subject to recommended amendments being adopted), nor do I agree that the North East part of the zone should be relinquished. However, these submitters do raise an issue as to which marina extension has priority for development. There are two different areas identified for future expansion of the Marina, and there is no provision made in the plan change for staging or coordinated expansion of the marina. These submitters raise a valid concern, which I address in detail in the next section.

Recommendation 4: In response to the issues raised by submitters regarding amenity and visual impacts, I confirm the recommendations in 3.1 & 3.2 and further recommend the following amendments.

1. Buildings other than toilet blocks associated with parking should be discretionary within the marina extensions, with a limit of 50m² building area and a new height control for all buildings of 6m in those areas.
2. Amend rule 34.1.3.5.1 to require a cap on lighting associated with the marina zone extensions to prevent unnecessary pollution of the night sky.
3. Include, as a new assessment matter for marina extensions, the extent of encroachment of the marina into the indigenous vegetation along the foreshore.
4. Add a new requirement for landscaping of marina reclamations (5% of the reclaimed area).
5. Require the beach (shown in Appendix L of the plan change, "Waikawa Bay Indicative Layout Plan" plan number 3537-06) to be incorporated into an outline development plan to be added to Appendix J, and include adherence to the outline plan as a new assessment matter.

Issue E) General - Size, Extent and Location

Discussion:

Move mooring locations

DA & LM Stone (36:435) seek to increase the separation between moorings in front of the lease hold baches and the baches (north west arm of Waikawa Bay), on the basis of adverse visual effects. This submission is opposed by MBMA. Ross Anderson (15:409) seeks a new MMA in Wharetukura Bay. Steven Woledge (5:393) seeks to expand the MMAs to encompass all existing moorings in the Bay, or to encompass his mooring on the North East boundary. These submissions are opposed by Port Marlborough and MBMA, and opposed in part by a Te Atiawa to the extent they do not seek withdrawal or rejection of the plan change.

The new MMA on the North Western side of the Bay is a relocation of existing moorings. The Council landscape assessment (Attachment A), concludes that "*the proposed level of development can be absorbed in to this area of Waikawa Bay, if additional planning measures are put in place to prevent potential adverse effects.*" The "additional planning measures" recommended are in respect of the marina, and no additional planning measures are recommended in the landscape review for the MMAs. I consider that any adverse effects from

the proposed MMAs will be minor.

I have some sympathy with Mr. Anderson's submission seeking a new MMA in Wharetukura Bay. Although moorings in that bay are all lawfully established, it would have been consistent for the plan change to also have included moorings in Wharetukura Bay within a new MMA, to enable a single management process for the whole of Waikawa Bay. Providing for this new MMA would not affect the existing holder's rights under their resource consent, but would increase the certainty of long term certainty for the mooring holders, negating the need to renew mooring consents. However, an MMA in Wharetukura Bay did not form part of the plan change as notified.

I am aware of case law (*Bezar v MDC, C031 2009*) where the Environment Court and High Court found that a submission seeking a zone extension (in that case) was not a submission "on" the plan change, and the relief sought (zone extension) could not be provided. The Court determined that for a plan change to be within scope, a reasonable person on reading the notified plan change, needs to have anticipated the proposed change, otherwise they may have taken no further interest in the plan change. I believe Mr. Anderson's submission seeks to extend a new overlay which did not form part of the plan change as notified and is not within the scope of Plan Change 21. Although there are merits in providing a new MMA in Wharetukura Bay, this cannot be considered as part of Plan Change 21. This would best be addressed through a separate plan change.

I do not consider it appropriate to expand the MMAs to encompass all existing moorings, since the purpose of the MMAs is to consolidate MMAs within defined areas. The Navigation and Safety report (attachment D) does recommend expanding the MMAs to provide for additional capacity. However, this is quite different than encompassing all existing swing moorings. I also an issue relating to scope, and consider that expanding the MMAs would not be within the scope of the plan change as it was notified.

Relinquish Marina extensions

JM Carter and BH Fechny (7:396), and John & Mary Mulcock (32:425) seek to limit marina expansion to the North West only. These submissions are opposed by Port Marlborough, and opposed in part by a Te Atiawa further submission to the extent they do not seek withdrawal or rejection of the plan change.

Kelly Beech (40:429), Terry Beech (41:430) (both opposed by Port Marlborough and opposed in part by a Te Atiawa Further submission), Vicki Eastgate (42:431), Perano Subsea Technology (22:416), and Rob McCartie (100:198) (opposed by Port Marlborough and supported in part by a Te Atiawa further submission) all seek to remove the proposed North West Marina Zone and limit expansion to the existing Marina Zone. Peter Thomas (31:439, opposed by Port Marlborough) opposes North West expansion unless the North East expansion is relinquished.

The primary concerns of these submitters relates to intensity of activity (an additional 250 boats in the North West, 500 in total) and associated effects. My assessment of the Plan Change and the reports commissioned by Council is that at full development, effects are able to be mitigated, and that in the context of fairly intensive existing boat activity in Waikawa Bay, activity from the additional marina berths can be absorbed within existing activity in the Bay. For these reasons, I do not consider it necessary to relinquish either the North West or North East Marina extensions.

However, the submissions do raise the issue of development staging and priority. The Plan Change is silent on staging, and the effect could be development of either the North West or North East, or conceivably development of both at the same time. There is merit in a trigger for staging development of the Marina extensions.

Port Marlborough has advised that as a result of consultation they have a clear preference for development of the North West extension first, in the light of some submissions received. This is also reflected in their further submission. Although there are submissions also seeking North East development first, there is a general preference for the North West. Advantages in developing the North West first include:

- Developing NW marina first allows better management of effects through a staged development process.
- Developing NW marina first better matches development to demand, and avoids unnecessary development to meet anticipated rather than actual demand for berths.
- There is a preference for the NW marina first. Port Marlborough advise they are open to staging.
- NW marina development would provide infrastructure to support the Northern MMA.

For these reasons, I have recommended amendments to the plan change to require the North West marina extension to be developed ahead of any development within the North East.

Other

Waikawa Marina Trust Berth Entitlement Holders (14:407) (opposed in part by a Te Atiawa further submission) seek to recognise the trust and holders existing use and to document this in the plan change. It is unusual for a Plan to specifically list potentially affected parties or parties with existing use. I do not consider this is necessary, and that the RMA and consent process is the correct process for recognising existing use.

Recommendation 5: Re-confirm recommendations 3.1 and 3.2.

Issue F) General - Cultural

The plan change attracted a large number of submissions⁴ on cultural issues from members of Te Atiawa. All submissions seek the plan change be rejected or withdrawn. These submissions are supported by a further submission from Te Atiawa (Trust). Port Marlborough are neutral or opposed to the submissions.

The majority of cultural submissions are “form” submissions, with individual submitters identifying the same issues. The submitters’ concerns are largely with the marina extension and the increase level of activity, rather than the new MMAs.

In general the issues raised in submissions fall into two broad areas:

- Effects which have already occurred from existing development.
- Effects arising from the development of the marina at full development.

I will limit my assessment to effects from the new zoning, since assessing effects which have already occurred from existing development is outside the scope of an assessment of Plan Change 21.

I also note that iwi submissions appear to be based on full development being something of a

⁴ Submitter numbers 10; 12; 45; 46; 47; 48; 49; 50; 51; 52; 53; 54; 55; 56; 57; 58; 59; 60; 61; 62; 63; 65; 66; 67; 68; 69; 70; 71; 72; 73; 74; 75; 76; 77; 78; 79; 81; 82; 83; 84; 85; 86; 87; 88; 90; 91; 92; 93; 94; 95; 96; 97; 98; 99; 101; 102; 103; 104; 105; 107; 108; 109; 110; 111; 112; 113; 114; 115; 116; 117; 118; 119; 120; 121; 122; 123; 124; 125; 126; 127; 128; 129; 130; 131; 132; 134; 135; 136; 137; 138; 139; 140; 141; 142; 143; 144; 146; 147; 148; 149; 150; 151; 153; 154; 155; 156; 152; 154; 157; 158; 159; 160; 161; 164; 166; 167;

certainty under the proposed zoning. It appears that submissions have overlooked that any marina development (including within the current zone) must go through a discretionary resource consent process. I understand how this may not have been clear from the plan change process.

Discussion:

Mahinga Kai, loss of kai moana and Cultural Harvest

The Cawthron report (Appendix E, submitted with the plan change), assessed the effect of the plan change on ecology, including traditional kai moana. The report makes the following conclusions:

- The loss of 430m of intertidal and shallow sub-littoral habitat (North West marina extension) would be significantly offset by the introduction of new structures such as breakwaters.
- Overall contamination levels within the existing marina are very low.
- With appropriate management practices, the marina (existing and extension) need not represent a major source of contamination in the wider area.
- Sedimentation can be managed and areas outside immediate works protected from turbidity exceeding natural occurrences.
- It is not expected that increase in existing marina activities will result in significant adverse ecological effects to benthic areas.
- Establishment of the MMAs will result in minor adverse effects on benthic ecology
- The loss of some benthic habitat (kai moana) may have implications on a local scale, but these effects are expected to be minimal

I accept that 430m of kai moana habitat will be lost, and that this will not be fully replaced by the new structures. I also understand that no loss of kai moana is acceptable to Te Atiawa. However, in terms of an RMA assessment of effects, and using an “effects scale” from nil effects to catastrophic effects, I consider that, in the context of the wider Waikawa Bay and the wider sounds, the loss of 430m of kai moana habitat is at the lower end of the scale (minor). The existing level of activity, development and use of Waikawa Bay needs to be acknowledged, and for better or worse, Waikawa Bay is has been developed. Given this and that effects are able to be further addressed at the time of resource consent, I consider the loss of kai moana habitat is not sufficient justification to reject the plan change.

Mauri

I understand mauri to mean “life force”, and that it is an unseen and un-measurable way of assessing the health of a natural resource. My assessment is the mauri of Waikawa Bay has already been compromised by existing development and use. I am not minimising this, but I cannot go any further in assessing effects from existing activities. I also note that Cawthron report conclusion that the new marina structures will themselves provide new habitat for sea life which will offset the loss of habitat in the 430m intertidal area. In the context of existing development, the proposed North West extension will have minor cumulative impact on individual organisms, and therefore minor impact on the overall mauri of the Bay.

Cultural effects and iwi needs relegated in favour of recreational boaters

Cultural effects from the plan change include effects on and cultural harvest. I have already noted that these are able to be assessed in detail as part of the marina extension, and that I consider these effects are able to be mitigated. The plan change also does not prevent cultural harvest from continuing within Waikawa Bay.

I accept that at full development there will be an increase in recreational boaters, but I do not consider this in itself is an adverse effect on cultural practices or taonga. I also note that the plan change proposes an amendment to policy 1.14, to add “cultural uses” to the range of activities which are enabled. Cultural use is also added in proposed changes to the

explanation. In my view, these additions make better provision for cultural use in the MSRMP.

Te Atiawa Kaitiaki not recognised

I agree that the plan change does little to recognise kaitiaki. The section 32 analysis records consultation with iwi, but makes no acknowledgment of Te Atiawa as kaitiaki of Waikawa Bay. Similarly, the proposed changes to the plan, although adding provisions for cultural use, do not propose any changes relating to kaitiaki. Section 7(a) of the RMA requires any plan change to “have particular regard to” kaitiakitanga.

I consider the section 32 analysis is deficient in not acknowledging kaitiaki, particularly given the consultation with Te Atiawa which is recorded in Appendix J. However, I do not consider this is a “fatal flaw” in the section 32 analysis, or that the requirements of section 32 have been met.

Chapter 6 of the sounds plan sets out issues and methods relating to tangata whenua, and it specifically includes kaitiakitanga. As chapter 6 is district wide, I consider it has sufficient scope to include Waikawa Bay. Although Te Atiawa are not specifically identified in Chapter 6, the plan change does not diminish kaitiaki of any iwi, since all developments are over-riden by the general provisions of Chapter 6. I do not consider any further recognition is necessary through Plan Change 21.

Lack of research and cultural impact assessment not undertaken by a member of Te Atiawa

I have already referred to the Cultural Impact Assessment, noting that submitters have not requested a CIA and I do not consider one to be needed.

I disagree there has been limited research. Port Marlborough has submitted a number of technical reports as part of the plan change, and Council has commissioned independent expert reports.

Seabed and Foreshore Act does not allow ownership

Any consideration of the Seabed and Foreshore Act (and its replacement) is subject to a separate process, and is outside the scope of what can be assessed for plan change 21.

General effects (pollution, overfishing (wider sounds), ecology, navigation and safety, amenity, effects from stream realignment)

Many effects referred to (particularly stream realignment) are existing and, are outside the scope of consideration.

The Cawthron Report (Appendix E) concludes that one effect from the plan change will be an increase in recreational fishing in the sounds. However, this is managed through different legislation than the RMA, and the effects of increased recreational fishing is outside the scope of considerations for plan change 21.

I have previously discussed amenity effects and concluded that I consider these can be mitigated.

The navigation and safety report (Attachment D) addresses submitters’ concerns about navigation and safety. I discuss this report in more detail in the next section.

Recommendation 6: I recommend not rejecting or withdrawing Plan Change 21 (as sought by submitters) and no amendments in respect of cultural issues.

Issue G) General – General Effects

Discussion:

A number of submitters⁵ raised concerns about general adverse effects from the plan change. These submitters all seek the plan change be withdrawn or rejected. These submissions are opposed by Port Marlborough, and supported in part by a further submission from Te Atiawa.

Effects raised by submitters and my comments are as follows:

Overfishing

The Cawthron Report (Appendix E of the plan change) acknowledges the increase in boats will increase recreational fishing. However, this is managed by different legislation to the RMA and the effects are outside the scope of the plan change.

Pollution and discharges

Any new marina development will be subject to a discretionary resource consent process. While my assessment is that effects from discharges can be mitigated, this will be thoroughly assessed through the consent process.

Sedimentation and siltation of cockle beds from stream realignment

Stream realignment is existing, and does not form part of the plan change.

Aquatic ecology

The Cawthron Report (Appendix E of the plan change) concludes that effects on aquatic ecology can be mitigated. I accept this conclusion.

Navigation and Safety

Council's report on navigation and safety (attachment D) makes the following conclusions and recommendations. My comments follow each recommendation.

Navigation & Safety report - Conclusions

1. *The proposal as stated does not raise any significant new navigation or safety risks that cannot be reasonably mitigated.*
2. *The creation of MMA's and the licensing of moorings would assist in achieving better and safer use of Waikawa Bay.*

Navigation and safety report - recommendations

1. *That as a condition of any resource consent issued for the marina development, and whenever moorings are relocated into MMA's, the Harbourmaster specifies what navigation aids and signage are to be installed.*

My Comment: I accept this recommendation, and recommend amending the plan change to include "navigation aids and signage" as a specific assessment matter for marina resource consents.

2. *That the existing leading light (recently upgraded in intensity) be retained to define the main fairway into and out of the bay.*

⁵ Submitter numbers 2; 7; 10; 12; 26; 31; 45; 46; 47; 48; 49; 50; 51; 52; 53; 54; 55; 56; 57; 58; 59; 60; 61; 62; 63; 64; 65; 66; 67; 68; 69; 70; 71; 72; 73; 74; 75; 76; 77; 78; 79; 80; 81; 82; 83; 84; 85; 86; 87; 88; 90; 91; 92; 93; 94; 95; 96; 97; 99; 101; 102; 103; 104; 105; 107; 108; 109; 110; 111; 112; 113; 114; 115; 116; 117; 118; 119; 120; 121; 122; 123; 124; 125; 126; 127; 128; 130; 132; 133; 134; 135; 136; 137; 138; 139; 140; 141; 142; 143; 144; 145; 146; 147; 148; 149; 150; 151; 152; 153; 154; 155; 156; 157; 158; 159; 163; 164; 166; 167;

My Comment: I accept this recommendation, as advice to the Harbour Master. No amendments are required to the Plan Change to implement this recommendation.

3. *That as part of any large scale development of berthage an education programme be put in place to advise all users of their responsibilities for navigating both within Waikawa Bay and also in the shipping lanes of the inner Queen Charlotte Sound. This programme could be an extension of the current summer publicity and patrols conducted by the Harbourmaster.*

My Comment: I accept this recommendation, again as advice to the Harbour Master and the Council. The plan change should be amended to include this as an implementation method.

4. *That the management of the MMA's be undertaken in a transparent manner, funded by licence fees raised under a licensing bylaw. NB In order to achieve a safe boating environment adequate funding is required.*

My Comment: I endorse this recommendation, and I consider the bylaw is the preferable management process for moorings. No amendments are required to the plan change.

5. *That future demand for moorings is catered for by increasing the size of the planned MMA's. This will allow for additional moorings over time and ensure safe and consistent development of Waikawa Bay.*

My Comment: The basis for this recommendation is that the navigation and safety report identifies the constraint on the capacity of the MMA as giving potential for unconsented moorings outside the MMAs. This is a possible consequence, and I note the MMAs make no provision for additional mooring space, (apart from an extra 20 over and above what was sought in the resource consent). There is some merit in providing additional mooring capacity, particularly given the non-complying activity status for new moorings outside the MMAs. One submitter has requested an expanded MMA (to include all existing moorings).

However, I note the legal issue with expanding the MMAs beyond what has been notified. Expanding the extent of the MMAs would be outside the scope of the plan change as notified, and could not form part of the recommended amendments. For this reason, I do not recommend expanding the MMAs., but recommend that the matter be reviewed at a later date.

Biosecurity

Similar to the fisheries resource, biosecurity is managed through a separate process outside the scope of the RMA.

Light and noise

These effects are able to be mitigated, and can be assessed in detail through the consent process for any marina extension.

Cumulative effects

Similarly, I consider cumulative effects are able to be mitigated, and will also be assessed in detail through resource consents.

Beach erosion

Council's report on beach erosion (Annexure C) reaches the following conclusions:

If constructed, the proposed Marina Zone extension on the western shore of Waikawa Bay will remove a section of the shore from the influence of wave processes, and that part of the shore will not be able to be accessed from the water, but will be accessible from land.

The robust and resilient nature of the shore, and the contemporary development of the hinterland of the few soft shores and beaches, along with existing vessel speed regulations minimise the potential effect of increased boat use of Waikawa Bay.

It is likely that the indirect effects of the Plan Change, from increases in the number of boats using Waikawa Bay, on beach processes and beach erosion will be less than minor.

It is recommended that the boating regulations be visibly enforced, so as to deter breaches of the speed limits within Waikawa Bay. It is also recommended that the state of the beaches and soft shores of Waikawa Bay be identified to provide a baseline against which the shore can be assessed in the future, with regard to changes in vessel use of the bay, natural process events (storm waves and floods) and to changes in hinterland use.

I accept these conclusions, noting there will be further opportunity to assess these effects through the consent process for marina development.

I also endorse the recommendations, as matter for Council to take up since they are outside the scope of Plan Change 21.

Pressure on infrastructure

Finally, effects on existing infrastructure will be managed and mitigated through financial contributions and conditions which would require upgrades of any infrastructure which might be necessary to accommodate marina expansion.

My overall conclusion is that effects raised by submitters are able to be avoided or mitigated, that effects of marina development will be fully addressed through the discretionary consent process for marina development, and that potential for adverse effects is not a basis for rejecting or withdrawing the plan change.

Recommendation 7: I recommend the following amendments

1. Amend the plan change (34.4.2.12.4) to include "navigation aids and signage" as a specific assessment matter for marina resource consents.
2. Include as a new implementation method relating to 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

Issue H) General – Management of Moorings

Discussion:

TA & LM Stone (36:434) have sought that swing moorings are not moved until the area they occupy is required for development. MBMA lodged a further submission which neither supports nor opposes, but which clarifies this submission. The further submission clarifies the intent of the submission is to not relocate any moorings from the Marina Zone "until the development of new marina berths in those areas is imminent".

I have recommended that development of the North East marina extension be deferred until the North West extension has been developed and occupied, so this submission can be accepted in part.

This submission (and the further submission) do raise something of an issue in terms of the relationship of the plan change with the “live” resource consent for the un-consented moorings. If the MMAs are adopted, and the resource consents are declined outright, then all un-consented moorings will continue to be unlawful until they are relocated to the MMAs. As pointed out in the submission, the need to relocate moorings within the Marina Zone is triggered by the development of the Marina. There is no practical reason to relocate the moorings within the Marina zone until the zone is developed.

There are two ways to address this:

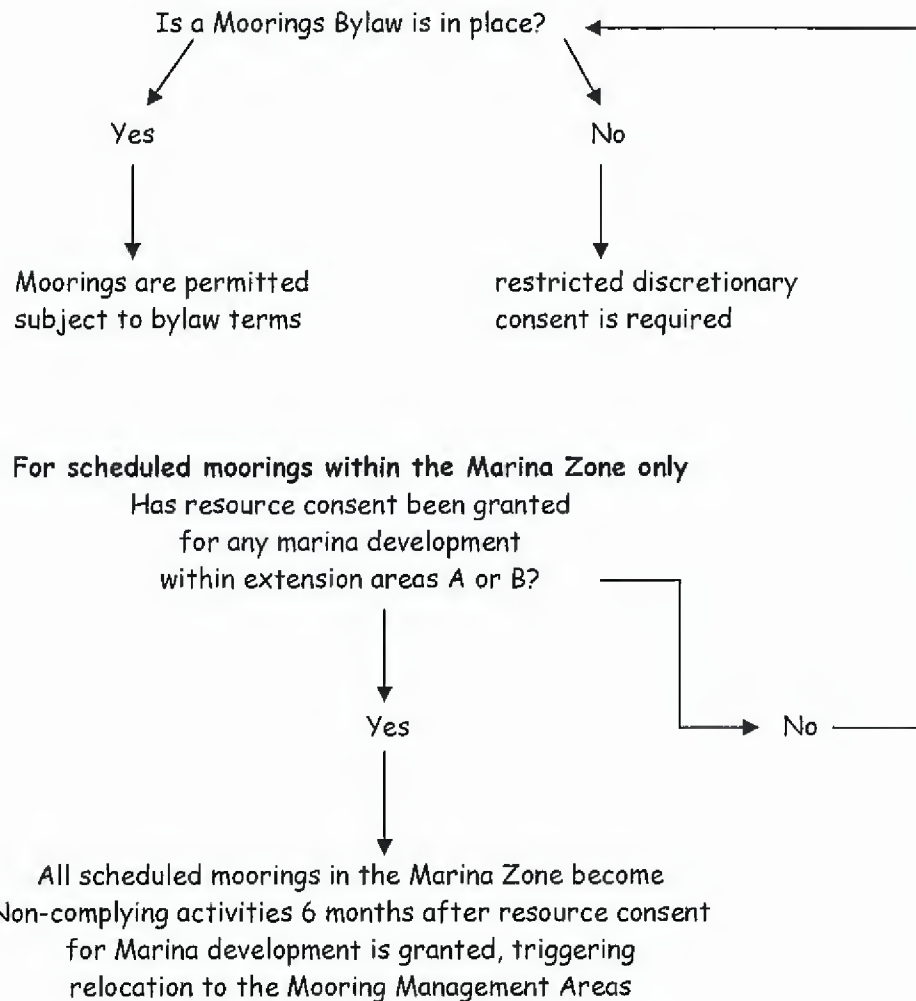
- a) Apply the same provisions to existing moorings within the Marina Zone as apply to existing moorings in the Coastal Marine Zone, along with a new “sunset” rule which is triggered in the event of the Marina being developed.
- b) Alternatively, the existing “live” consents for any moorings within the marina zone could be granted temporarily, with a condition that those consents expire upon the development of the marina extensions.

Under both options, sufficient mooring spaces would need to be “reserved” within the MMAs to provide for the relocation of moorings from the marina zone to the MMAs.

In my view, the simplest solution would be to issue temporary consent for all moorings within the Marina Zone, with those consents expiring on the development of the Marina. This would also allow specific conditions to be set for those moorings. The consent process seems to most expedient way to address this issue. However, this in itself creates a process issue, since the consent process cannot be pre-determined through Plan Change 21.

To address this, I recommend amending plan change 21 to provide for existing swing moorings located within the Marina Zone on a temporary basis, under the same terms as moorings in the MMAs. I have included the following flow chart to assist:

For all existing un-consented moorings located in the Marina Zone or Coastal Marine Zone



Existing consented moorings would be relocated according to the terms of their consent or by negotiation with Port Marlborough.

Although somewhat complex, this amendment would give effect to the Stone submission and would address the real issue of moorings within the Marina Zone remaining unlawful until they are relocated to the MMAs. It also has the benefit of offering existing moorings holders of moorings within the Marina Zone two options:

- Option 1 is to relocate to the MMAs as soon as they become operative.
- Option 2 is to remain within the Marina Zone and relocate only if consent is granted for development of the Marina extensions.

This approach would meet the objective of the plan change to rationalise the management of moorings within Waikawa Bay. It does not disadvantage Port Marlborough, and avoids forcing the relocation of existing moorings in the Marina Zone until that space is actually required for marina development.

Recommendation 8: I make the following recommendations:

1. Defer development of the North East marina extension until the North West extension is developed and occupied.

2. Amend the Draft Bylaw to reserve sufficient mooring space for moorings to be relocated from the Marina Zone.
3. Amend the Marina Zone to:
 - a. Apply the same rules for moorings within the Marina Zone as apply within the Coastal Marine Zone.
 - b. As consequential amendments, amend policy 1.9 and 1.10 and explanation, condition 35.1.2; limit on discretion 35.3.2.1.1; assessment criteria 35.4.2.8.1.

Issue I) General – Traffic

Six submitters⁶ oppose on the basis of adverse effects relating to traffic, parking and infrastructure. Four of these submitters (submitters 46; 37; 91; and 107) seek the plan change is withdrawn or rejected. Te Atiawa have lodged a further submission in support of these four submissions, while Port Marlborough oppose these submissions.

One submitter seeks measures to address increased traffic, which another submitter seeks specific relief in the form of corner widening, speed humps and trimming of vegetation to improve sight lines. Te Atiawa have lodged a further submission opposing these submissions in part.

Discussion:

Appendix H of the plan change (Traffic Design Group (TDG) Assessment of Traffic Effects) concludes that:

- The Marina Zone extension is able to meet the on-site parking and accessibility “expectations” of the MSRMP.
- There is ample capacity to accommodate additional traffic generated by the additional 250 berths.
- There will be no adverse traffic effects in the longer term.
- Consolidation of the swing moorings will not have any effect on traffic or parking since the moorings will essentially remain the same.
- Construction traffic is able to be managed.
- Existing “transport arrangements” are able to support the plan change.

Council commissioned an independent expert peer review of the TDG traffic report. This report, prepared by ViaStrada (Rhys Chesterman) is attached (attachment B). I have summarised the key conclusions and recommendations as follows:

Traffic review - Conclusions

- *Agreement with TDG’s conclusion that the proposed Plan Change to extend the Marina Zone can accommodate an additional 250 wet-births, together with associated parking and vehicle access.*
- *Parking rates for Marina activities in the Marina Zone have a dedicated parking rate that favourably aligns with the current supply and also aligns with parking surveys undertaken by TDG during the peak holiday season.*

⁶ Submitter numbers 2; 7; 37; 46; 91; 107