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**MARLBOROUGH
DISTRICT COUNCIL**



Only Marlborough

12 May 2023

Record No: 2393419
File Ref: D050-001-02
Ask For: Mike Porter

Notice of Council Meeting – Thursday, 18 May 2023

Notice of the Council Meeting to be held in the Council Chambers, 15 Seymour Street, Blenheim on Thursday, 18 May 2023 to commence at 9.00 am.

BUSINESS

As per Order Paper attached.

**MARK WHEELER
CHIEF EXECUTIVE**



**Order Paper for the
COUNCIL MEETING
to be held in the Council Chambers, 15 Seymour Street, Blenheim
on THURSDAY, 18 MAY 2023 commencing at 9.00 am**

Open Meeting

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Marlborough District Council

**Order Paper for the
COUNCIL MEETING**
to be held in the Council Chambers, 15 Seymour Street, Blenheim
on THURSDAY, 18 MAY 2023 commencing at 9.00 am

1. Karakia

Tēnā koutou, tēnā koutou, tēnā koutou katoa
E te Atua tō mātou Kai-hanga,
ka tiāho te maramatanga me te ora, i āu kupu kōrero,
ka tīmata āu mahi, ka mau te tika me te aroha;
meatia kia ū tonu ki a mātou
tōu aroha i roto i tēnei huihuinga.
Whakakī a matou whakaaro ā mātou mahi katoa,
e tōu Wairua Tapu.
Āmine.

(God our Creator,
when you speak there is light and life,
when you act there is justice and love;
grant that your love may be present in our meeting.
So that what we say and what we do may be filled with your Holy Spirit.
Amen.)

2. Apologies

3. Declaration of Interests

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

4. Minutes

- 4.1 Confirmation of the Minutes of the Council Meeting held on 6 April 2023
(Minute Nos. Cncl-0423-327 to Cncl-0423-333)

**Minutes of a Meeting of the
Marlborough District Council
held in the Council Chambers, 15 Seymour Street, Blenheim
on THURSDAY 6 APRIL 2023 commencing at 9.00 am**

Present

The Mayor N P Taylor (in the Chair), Cllrs S R W Adams, J A Arbuckle, S J Arbuckle, A R Burgess, J D N Croad, D A Dalliessi, B G Dawson, B A Faulls, M R K Flight, G A Hope, R J Innes, B J Minehan, J C Rosene and T P Sowman.

In Attendance

Mr M S Wheeler (Chief Executive), Mr M F Fletcher (Chief Finance Officer) and M J Porter (Democratic Services Manager).

Karakia

The meeting opened with a karakia.

Cncl-0423-327 Declaration of Interests -

Members were reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

A number of declarations were noted in the agenda:

- The various interests as declared under Minute Nos. Cncl-0323-255, Cncl-0323-277 and Cncl-0323-285;
- The interest as declared under Minute No. EFC-0323-304 (Minute No. EFC-0323-306, EFC-0323-307, EFC-0323-308, EFC-0323-311 and EFC-0323-e-57); and
- The interests as declared under Minute No. Grnt-0323-326 (Marlborough Repertory Society and Navarro, Andrea).

Claudia Mark, Council's new Solicitor, was introduced to the meeting.

Cncl-0423-328 Confirmation of Minutes -

The Mayor/Cllr Croad:

That the Minutes of the Council Meeting held on 2 March 2023 (Minute Nos. Cncl-0323-255 to Cncl-0323-291) be taken as read and confirmed.

Carried

Committee Reports

Cncl-0423-329 Environment & Planning Committee -

Cllrs Hope/Faulls:

That the Committee report contained within Minute Nos. E&P-0323-292 to E&P-0323-303 be received and the recommendations adopted.

Carried

Cncl-0423-330 Economic, Finance & Community Committee -

Cirs J Arbuckle/Dawson:

That the Committee report contained within Minute Nos. EFC-0323-304 to EFC-0323-320 be received and the recommendations adopted.

Carried

Cncl-0423-331 Grants Sub-Committee -

Clr Croad questioned the recommendation under Minute No. Grnt-0323-323 (Community Grant Criteria and Amendment), Recommendation 2, in that the Environment Sub-Committee does not exist in this Triennium's Committee Structure. It was agreed that the reference should be amended to read "Environment & Planning Committee". Staff have made this change.

Cirs Sowman/Burgess:

That the Sub-Committee report contained within Minute Nos. Grnt-0323-321 to Grnt-0323-326 be received and the recommendations, as amended above, adopted.

Carried

Cncl-0423-332 2023-24 He Uiuinga Mahere ā-Tau Annual Plan Consultation

F230-A23-03

Mr Fletcher reported that the purpose of the report was to adopt Council's 2023-24 Annual Plan consultation document, called the *He Uiuinga Mahere ā-Tau Annual Plan Consultation*. The document was attached to the agenda and an updated paper copy was circulated prior the meeting.

It was reported that the *2023-24 Annual Plan* is a high-level summary which identifies Council's signalled intention to have a rates increase of 7.8%, the impact that has on levels of service and major capital budgets/projects proposed for the 2023-24 year, and the subsequent three years. It also includes a message from the Mayor and how to make a submission. The *2023-24 Annual Plan* will be published on Council's website and can be printed off from there. It will also be made available via local newspapers.

In addition, a number of articles and media releases on this year's Annual Plan projects and programmes will continue to be published on Council's website, Facebook and Twitter feeds during April. A small number of printed copies of the 2023-24 Annual Plan will be made available from Council offices and libraries. Council's website will contain supporting information about the Annual Plan, including agenda items from the 2 March Council meeting, which include all the new projects, the budget summary, LTP activity statements, capital expenditure and general financial content at that time.

Members discussed the document and some suggestions were made to wording that staff will incorporate. The distribution/comms were also discussed.

Members commended those involved in a clear concise document.

The Mayor/Clr Croad:

That Council adopt the 2023-24 He Uiuinga Mahere ā-Tau Annual Plan Consultation Document

Carried

Cncl-0423-333 Decision to Conduct Business with the Public Excluded -

Cirs J Arbuckle/Innes:

That the public be excluded from the following parts of the proceedings of this meeting, namely:

- Confirmation of Public Excluded Minutes
- Committee Reports (Public Excluded Sections)

- Capital Funding Allocation

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General Subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for the passing of this resolution
Minutes and Committee Reports	As set out in the Minutes	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under Section 7 of the Local Government Official Information and Meetings Act 1987.
Capital Funding Allocation	To enable the Council, as holder of the information, to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) provided for under Section 7(2)(i)	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under Section 7 of the Local Government Official Information and Meetings Act 1987.

Carried

The meeting closed at 9.44 am.

Confirmed this 18th day of May 2023

N P TAYLOR
MAYOR

Record No. 2369499

4. Minutes

- 4.2 Confirmation of the Minutes of the Extraordinary Council Meeting held on 24 April 2023
(Minute Nos. Cncl-0423-358 to Cncl-0423-359)

**Minutes of the
EXTRAORDINARY MEETING of the MARLBOROUGH DISTRICT COUNCIL
held in the Council Chambers, 15 Seymour Street, Blenheim
on MONDAY 24 APRIL 2023 commencing at 9.00 am**

Present

The Mayor N P Taylor (in the Chair), Cllrs S R W Adams, J A Arbuckle, S J Arbuckle, A R Burgess, J D N Croad, D A Dalliessi, B G Dawson, M R K Flight, G A Hope, R J Innes, B J Minehan, J C Rosene and T P Sowman

In Attendance

Messrs M S Wheeler (Chief Executive), M F Fletcher (Chief Financial Officer) and Ms N J Chauval (Committee Secretary)

Karakia

The meeting opened with a karakia.

Apologies

Cllrs J Arbuckle/Dalliessi:

That the apology for absence from Cllr B A Faulls be received and sustained.

Carried**Cncl-0423-358 Declaration of Interests** -

Members were reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

No declarations of interest were declared.

Cncl-0423-359 2021-2022 Annual Report F275-A21-01

Members noted that the purpose of the report was to adopt the Annual Report for the Marlborough District Council for the financial year ended 30 June 2022. The Annual Report reports the performance of Council against non-financial performance targets and financial forecasts. The Draft Annual Report was circulated separately to the Agenda and the Independent Auditor's Report and Recommendation from the Chair Audit and risk Sub-Committee were tabled at the meeting.

The Mayor noted the short timeframe for the meeting which has resulted from delays with Audit NZ and their processes.

Mr Fletcher highlighted various sections within the Annual Report. It was noted that where performance targets haven't been met an explanation is provided.

Mr Fletcher provided answers to a number of questions posed by members and provided further clarification on the valuation of the three waters infrastructure assets.

Members were advised that the Audit & Risk Sub-Committee held a meeting on 21 April 2023. Following a written report and a presentation from Mr Julian Tan, the Audit New Zealand Director responsible for the 2021/022 audit, and various discussions by the Audit and Risk Sub-Committee, members recommended that the Mayor and Chief Executive sign the proposed letter of Representation for the 2021-22 Annual Report and that Council adopt the 2021-22 Annual Report, as presented without alteration, together with the Auditor's unmodified opinion.

Members acknowledged the considerable effort by the Finance team and other Council staff involved in the process.

**The Mayor/Clr J Arbuckle:
That the Council adopt the 2021-2022 Annual Report.**

Carried

The meeting closed at 9.40 am.

Confirmed this day of 2023

N P TAYLOR
MAYOR

Record No. 2384083

5. Committee Reports

5.1 Assets & Services Committee

Assets & Services Committee Meeting held on 18 April 2023
(Minute Nos. A&S-0423-334 to A&S-0423-342)



**Report and Minutes of a Meeting of the
ASSETS & SERVICES COMMITTEE
held in the Council Chambers, 15 Seymour Street, Blenheim on TUESDAY, 18 APRIL 2023
commencing at 9.00 am**

Present

Clrs J D N Croad (Chairperson), S R W Adams, S J Arbuckle, D A Dalliessi, B G Dawson and Mayor N P Taylor

Also Present

Clrs J A Arbuckle, A R Burgess, B A Fauls, G A Hope, R J Innes, B J Minehan and T P Sowman

In Attendance

Mr J Lyall (Manager – Property and Community Facilities), Mr S Rooney (Operations & Maintenance Engineer) and Ms G Dixon (Secretary)

Apologies

Clrs Croad/Dawson:

That the apology for absence from Clrs J C Rosene and M R L Flight be received and sustained.

Carried

A&S-0423-334

Declaration of Interests

Clr R J Innes declared an interest in Item 2 – Road Status

ATTENDANCE: Ms Linda Craighead, Council's Planner – Parks and Open Spaces, was present for the following item.

A&S-0423-335

**Siting Air Quality Monitoring Equipment on
Memorial Park and Picton Foreshore**

R510-009-M02-01, R510-009-P02-01

Ms Craighead noted that the purpose of the report was to consider locating air quality and climate monitoring equipment on reserve land at Memorial Park (Picton) and Picton Foreshore.

By way of background it was noted that a request had been received from the Council's Environmental Science and Monitoring team to locate monitoring equipment on two Council reserves to measure PM₁₀ and NO₂/SO₂ contaminants. This has come about as a consequence of a year-long continuous screening study carried out by NIWA from mid-2019 to September 2020 to assess if NES compliant monitoring station(s) were required for the town.

The Mayor/Clr Dalliessi:

That Council:

1. Approve the permanent siting of air quality monitoring equipment on Memorial Park as proposed by the Environmental Science and Monitoring Team.
2. Approve the temporary siting of air quality monitoring equipment on Picton Foreshore for up to 12 months as proposed by the Environmental Science and Monitoring Team.

Carried

ATTENDANCE: Mr David Craig, Council's Management Accountant – Operations, was present for the following item.

A&S-0423-336

**Financial Report for the year to 28 February
2023**

F275-001-02

The Financial Report for the Assets and Services and Property and Community Facilities (including parking) Departments for the year to 28 February 2023 was presented to members.

The major variances between year to date actual and budget were noted as: Roothing emergency reinstatement costs following the July 2021 and August 2022 storm events are above budget by \$2.2M and are offset by increased operational rooding subsidies of \$2.7M. Other flood damage repair costs of \$816k have been incurred to date, mainly within the Flood Protection Activity, and are well within budget at this time. There are also associated savings of \$315k for minor works contracts in the Flood Protection Activity.

Flood event welfare response and recovery costs are captured under the Emergency Management Activity and \$674k has been incurred to date. Most of these costs are eligible for subsidy from either National Emergency Management Agency (NEMA) or Waka Kotahi (NZTA). Claims are still pending.

Roothing subsidy on capital expenditure is below budget by \$2.6M due to scheduling of the renewals programme over the warmer summer months.

Development contributions (\$1.146M) and Reserve fund contributions (\$271k) are both unfavourable to budget and are sourced from levies charged on development. These revenues are expected to improve during the year as staged subdivisional development occurs.

Vested assets are favourable to budget by \$323k. Accounting entries have been completed for stage 8b of the Rose Manor subdivision.

Trade waste revenue is unfavourable to budget by \$432k. Charges are based on the volume of water used through the metered connections of commercial and industrial properties that have a sewer flow greater than the average domestic property. Annual charges have now been assessed and the annual and first quarterly charges invoiced. Revenue for disposal of winery liquid waste directly to the Harding Roads industrial ponds (through septage receival facility) is favourable to budget by \$426k.

Dump fee revenue is unfavourable to budget by \$522k. Activity is generally a little quieter during the winter months and we do expect the variance to diminish as we progress through the year.

Grant income is favourable to budget by \$494k which is mainly attributable to the Provincial Growth Fund for Wairau River flood protection scheme \$255k, 3Waters Stimulus Funding \$147k and Tourism Infrastructure Funding (TIF) for public convenience upgrades \$118k; offset by unfavourable MFE grant for weighbridge installations \$26k.

Grant expenditure is favourable to budget by \$832k due to Marlborough Kaikoura Trail Trust (MKTT) and Marlborough Equestrian Park projects. Indications are that the Marlborough Equestrian project is unlikely to progress this financial year and funding (\$294k) will be carried over into 2023-24.

Depreciation charges \$451k and interest costs \$347k are both favourable year to date.

Mr Craig reported that Council has funded a budget of \$67.5M for capital expenditure in the 2022-23 Annual Plan. The total programmed work for the year is \$98.2M (including \$30.7M of carryovers from previous financial year). This ensures that multiple projects can continue to progress. Actual year to date expenditure of \$30.4M represents 45% of the funded amount. The major areas of capital expenditure to date are roads and footpaths \$12.870m, wastewater \$5.675m and water supply \$7.359m. Capital expenditure is impacted for many reasons including finalising community consultation, obtaining land access, obtaining resource consents, the availability of external professional expertise and receiving an acceptable contract price and contractor availability.

Cirs Croad/Dawson:

That the financial report for the period ended 28 February 2023 be received.

Carried

ATTENDANCE: Ms Charlotte Campbell-Lamerton, Council's Multi Modal Advisor to MDC, was present for the following item.

A&S-0423-337 **Marlborough Public Transport Procurement Strategy** **R800-004-01, C315-17-015**

Ms Campbell-Lamerton noted that the purpose of the report was to receive and adopt the Marlborough Public Transport Procurement Strategy, approved by Waka Kotahi (NZTA).

Cirs Dawson/S Arbuckle:
That Council adopts the Marlborough Public Transport Procurement Strategy February 2023 as approved by Waka Kotahi.

Carried

ATTENDANCE: Dr Alec McNeil, Council's Solid Waste Manager, was present for the following two items.

A&S-0423-338 **Government Waste Strategy Implications** **W300-006-008-09**

Dr McNeil noted that the purpose of the report to discuss the implications of the new Government waste strategy which was released on 29 March 2023 and replaces the previous 2010 version.

Council, in its role as a Territorial Authority, is obligated to take into account the waste strategy when developing a Waste Management and Minimisation Plan. This paper provides some commentary on the new waste strategy when compared against Council's current Waste Management and Minimisation Plan 2012-27 (WMMP). In general terms, Council is on track to deliver against this strategy within the required timeframes. However, some of the solutions required are reliant on activity within the wider commercial sector, for example, the collection and processing of food waste and the reduction in landfill gas emissions.

Cirs Dalliessi/Dawson:

1. **That the Council does not advance a food waste processing solution until the outcome of the commercial trials with the Aquaculture and Viticulture sector are understood.**
2. **That the Council provides information to the community that only plastics 1, 2 and 5 will be collected from the kerbside and received at the transfer stations or resource recovery centre with effect from 1 February 2024.**

Carried

A&S-0423-339 **Kerbside Food Waste Survey** **C315-20-021**

Dr McNeil's presented his report to update Council on the results of a recent kerbside collection food waste survey. This is in anticipation of Government changes to how councils manage household food waste, a survey of the contents of the kerbside refuse bags was conducted. The survey results provide information that will be relevant to any future decisions that Council consider in relation to household food waste reduction, collection, and processing.

The survey categorised the food waste into three types: **Avoidable** – food waste that could have been eaten at some point in time, **potentially avoidable** – food waste that some people eat, and others don't (e.g. apple and potato peels), **non-avoidable** – food waste that is unlikely to be eaten by the majority of the population, such as banana skins, tea bags and eggshells.

Cirs Dalliessi/Dawson:

1. **That the Council awaits the outcome of the commercial organic processing trials before advancing any further work on food waste collection and processing.**
2. **That Council staff report back on the commercial organic processing trials once the trial results become available.**

Carried

A&S-0423-340**Road Naming Sub-Committee****R800-007-06-07**

The minutes of the Road Naming Sub-Committee meeting held on 7 March 2023 were presented for ratification by the Committee.

Clrs Dalliessi/Dawson:

That the minutes of the Road Naming Sub-Committee meeting held on 7 March 2023 be ratified.

Carried

A&S-0423-341**Information Package**

Clrs Dawson/S Arbuckle:

That the Assets and Services Information Package dated 18 April 2023 be received and noted.

Carried

A&S-0423-342**Decision to Conduct Business with the Public Excluded**

The Mayor/Clr Dalliessi:

That the public be excluded from the following parts of the proceedings of this meeting, namely:

- **Property Lease**
- **Road Status**
- **Bus Driver Wages**
- **Land Acquisition**

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General Subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for the passing of this resolution
Property Lease Land Acquisition Bus Driver Wages	To enable the Council, as holder of the information, to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) as provided for under Section 7(2)(i).	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under Section 7 of the Local Government Official Information and Meetings Act 1987.
Road Status	Maintain legal professional privilege as provided for under Section 7(2)(g).	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under Section 7 of the Local Government Official Information and Meetings Act 1987.

Carried

The meeting closed at 10.55 am.

Record No: 2382915

5. Committee Reports

5.2 Environment & Planning Committee

Environment Planning Committee Meeting held on 20 April 2023
(Minute Nos. Env-0423-343 to Env-0423-357)



**Minutes of a Meeting of the
ENVIRONMENT & PLANNING COMMITTEE
held in the Council Chambers, 15 Seymour Street, Blenheim on THURSDAY, 20 APRIL 2023
commencing at 9.00 am.**

Present

Cirs G A Hope (Chairperson), B A Faulls (Deputy), J A Arbuckle, R J Innes, B J Minehan, T P Sowman, Mayor N P Taylor and Mr S Harvey (Rural Representative)

Present via Teams

Clr A R Burgess

Also Present

Cirs S R W Adams, S J Arbuckle and J D N Croad

In Attendance

Ms G Ferguson (Consents and Compliance Group Manager) and Ms B Brooklands (Secretary)

In Attendance via Teams

Ms N Chauval (Committee Secretary/Teams support)

Apologies

Cirs Hope/Faulls:

That the apology for non-attendance from Clr M R K Flight be noted.

Carried

Env-0423-343 Declaration of Interests -

Clr G A Hope declared an interest in Item 3 – Densification in the Residential 1 Zone.

Clr B J Minehan declared an interests in Item 10 – Biosecurity – RPMP Amendment Appeal Proceedings.

Mayor Taylor declared an interest in Item 11 – Appeals on the PMP.

Env-0423-344 Densification in the Residential 1 Zone

Presentation by Architect Tim Barton, on behalf of the Top of the South Institute of Architects, on the 'Medium density housing in the walk-to-the-shops part of Blenheim - allowing densification in the Residential 1 Zone'.

Mr Barton noted that the purpose of the report was to provide an update on the densification in the residential 1 zone under the PEMP in comparison with other Council's planning regulations and the benefits of quality intensification. This can be difficult due to the current recession plane and height rules. (Presentation filed in CM Record No. 2380721)

Clr Croad asked of Mr Barton where the R1 & 2 boundaries start and stop.

Clr Arbuckle asked why this is needed. Mr Barton advised that getting the density housing past Council is difficult and that they should not need a Resource Consent for such dwellings.

Clr Hope asked members to report back with pros and cons and impediments to Mr Barton's report.

The development of the monitoring programme was a six-step process. This included:

- Setting the objective of the monitoring
- Prioritising sites for monitoring
- Selecting indicators
- Establishing thresholds
- Selecting monitoring methods
- Developing the monitoring plan

A tiered monitoring approach is described in the report to be reviewed in 10 years time.

This document took two years to develop to ensure all 56 estuaries were monitored. The monitoring is scheduled for three tiers which will be monitored regularly.

Clr Adams asked of Tier 2 and if they had issues would they be elevated to a Tier 1. Mr Wade advised that yes they would and this will be reviewed in five years.

Clr Fauls asked if the five year period is too long between reviews and can more funding be applied for? Mr Wade advised that the five years gives adequate time to build up a review. The sediment plates are reviewed yearly. There is national direction coming from Mfe in the future however unsure how this will look at this stage.

Clr Minehan asked can the estuaries be categorised into estuaries that may have forestry or farming running into them. Mr Wade advised that it is difficult to determine what is the contribution to different land use that is deposited into estuaries.

Clr Hope suggested that Mr Wade send a link to the new Councillors of previous report by NIWA.

Cirs Fauls/Innes:
That the information be received.

Carried

Env-0423-348 Discharges to the Motuweka/Havelock Estuary E325-002-002

Mr Wade noted that the purpose of the report was to provide information on a recently completed report that identifies, characterises and maps the discharges to the Motuweka/ Havelock Estuary. Acknowledgement to Olivia Johnston and Lisa Floerl from Cawthron for their report. To highlight this report a PowerPoint presentation was shown (Presentation filed in CM Record No. 2380709)

The Motuweka/ Havelock Estuary is of great importance as a breeding and feeding area for a variety of wetland birds, provides roosting and feeding for a number of seabird species, has large mud and sandflats providing habitat for numerous shellfish and habitat for juvenile fish.

The Motuweka/ Havelock Estuary is the receiving environment for waters from the Te Hoiere/ Pelorus and Kaituna catchments.

The inputs from the riverine systems can have a cumulative and synergistic effect on the environment with a large number of discharges from the residential and industrial areas of Havelock town.

MDC engaged Cawthron to produce a summary of the information about the quality and quantity of direct aquatic inputs to the Havelock Estuary.

Data collation of available aquatic input information, presented as a summary excel file.

A site visit to Motuweka/Havelock for two Cawthron staff to locate and describe (identify key features/photograph/GPS) any visible outfalls and obvious visual effects from inputs to the surrounding coastline.

Mapping of the types of aquatic inputs to the estuary (including riverine inputs and consented/unconsented discharges).

A short report, including the project methods, a description of each individual input and estimates of individual and cumulative loading (supported by the summary tables and maps described above).

Information such as this on the quality and quantity of discharges to the Motuweka/ Havelock estuary is a vital first step in understanding and managing the cumulative anthropogenic impacts on the estuary.

Clr Hope advised the report was a benchmark on monitoring.

Ms Gina Ferguson advised the report was thorough and will assist in future consenting processes with cumulative reports. This will also assist with the review of consents that are up to 20 years old.

Cirs Faulls/Minehan:
That the information be received.

Carried

ATTENDANCE: Mr Matt Oliver, Council's Environmental Scientist Land Resources, was present for the following item.

**Env-0423-349 A Review of Land Use Capability
Classification in North Marlborough
E355-003-001**

Mr Oliver noted that the purpose of the report was to receive information on recent work to update Land Use classification in North Marlborough. To highlight this report a PowerPoint presentation was shown (Presentation filed in CM Record No. 2380708)

Acknowledgement to the feasibility study author's Mark Bloomberg (University of Canterbury) and Dave Palmer (Scion Research) who were engaged to carry out a study into the feasibility of producing fine-scale LUC (Land Use Capability) maps from existing mapping. The work was also peer reviewed by Ian Lynn of Maanaki Whenua Landcare Research. Mr Lynn is the author of the 1996 Marlborough second edition LUC (decision-tree) work and is regarded as the national subject matter expert.

In summary, the methodology is valid, the work was done well, and the result is acceptable. However, the simplifying assumptions need to be removed (a significant increase in algorithm complexity) and the coarse underlying co-variates need to be improved to a finer scale to create a valid LUC map at fine scale. This means the work cannot be used to upgrade the ESC.

The result is both positive and negative. While the method can be used, without the fine-scale co-variates a valid fine-scale LUC map is unobtainable. The greatest obstacle is the need for a fine-scale soil map.

A fine-scale soil map would be possible to create by utilising legacy studies, but this would represent approximately five years of mapping effort even using digital soil mapping technology.

The feasibility study does have significant value to Council. It has illustrated:

- a) The coarse nature of LUC mapping (and hence ESC) in the Marlborough Sounds.
- b) The risks of using this coarse scale mapping in planning and regulation.
- c) That the legacy datasets are approaching the end of their life in their current form and scale.
- d) Errors within the LUC mapping.

Mfe have not provided any further information on changes to PM2.5 at this point. If WHO do so, then we will be non-compliant.

Clr J Arbuckle asked if the phasing out of older solid fuel burners, not burning wet wood etc has made a difference in the air quality over the past year? Ms Brand noted that yes, the new log burners do make a difference and Council has produced educational articles on their website to assist people with clean burning and using dry wood.

Clr Hope asked if there is data from fires in Marlborough that reflect the health on people. Ms Brand noted that the report that is available, has been done on the whole country and not just Marlborough.

Clr J Arbuckle/Mr Harvey:
That the information be received.

Carried

Env-0423-351 Picton Air Emission Inventory 2022 and Update on Picton Air Quality Monitoring E300-004-002-01

Ms Brand noted that the purpose of the report was to provide the Picton Air Emission Inventory 2022 Report and to update the Committee on upcoming air quality monitoring for Picton. To highlight this report a PowerPoint presentation was shown (Presentation filed in CM Record No. 2380706)

This is the first emission inventory for Picton and is part of an increased focus on the area's air quality which included a continuous spatial air quality monitoring assessment study completed in 2020 which suggested the National Environmental Standard for Air Quality (NES) for several contaminants may be exceeded in different parts of the area, at different times of the year, highlighting the differing emission sources in the town area.

The purpose of this assessment was to estimate the contribution of different sources of emissions to air in the area. However as this is the first inventory, evaluating changes in emissions to air over time is limited but will form part of future studies which generally occur five years apart.

Sources included in the emission inventory are domestic heating, motor vehicle, port activities including shipping and cargo handling, industrial and commercial activities, and outdoor burning. Natural source contributions (for example sea salt and soil) are not included because the methodology to estimate emissions is less robust.

Clr Croad asked do you think people know about the outdoor burning rules? Ms Brand advised that Council has circulated the information and it is available on Council's website.

Mayor Taylor noted Point 30 to 34 in Ms Brand's agenda items speaks to shipping. With the pending arrival for electric ferries, can the shipping and port emissions be broken down into further sub points? Ms Brand advised she would need to speak to Emily Wilton regarding this, however the PM area did have this level of outputs.

The Mayor/Clr Faulls:
That the report be received.

Carried

ATTENDANCE: Mr Jono Underwood, Council's Biosecurity Manager, was present for the following item.

Env-0423-352 Biosecurity – RPMP Amendment Appeal E315-002-008-05
Proceedings

Mr Underwood noted that the purpose of the report was to update the Committee on the Environment Court proceedings from an application made to the Court by a submitter on the 2020 amendment to the Regional Pest Management Plan (RPMP) and to seek ratification of an Appeal lodged by Council with the High Court on the interim decision of Environment Court received on 17 March 2023.

Mr Underwood spoke to two options for Council to consider. Option one – ratify the Appeal lodged with the High Court. Council staff will continue to work with legal representation to work through the Appeal process on points of law in the High Court. This would also involve an immediate request for a stay on the Environment Court proceedings. Option two - Withdrawal the Appeal lodged with the High Court and follow the directions of the Environment Court interim decision. Council shall withdraw the High Court Appeal and request the removal of the stay on Environment Court proceedings. Council staff would then work through the directions in developing wording/content for insertion into the Regional Pest Management Plan in accordance with Court directions.

Clr Adams asked how much has been spent to date. Mr Underwood noted from initial mediation process through to date has been \$45 thousand in legal representation. It was asked how much has been budgeted for? Mr Underwood noted that this will be sourced from the biosecurity budget however, the High Court process costs are not known yet. Ms Ferguson noted that the High Court process will be for the legal fees.

Mr Underwood noted that this is an active case before the court, so he needs to be mindful of information given. The costings are factored for regional programmes and not for a per property basis.

Clr Arbuckle asked if the pest control was reviewed every 10 years? Mr Underwood confirmed they are, however, they can be amended at anytime under the Biosecurity Act. The plan as a whole will be reviewed in 2028.

Clr Croad asked if Marlborough's plan was consistent with the rest of New Zealand? Mr Underwood advised that Marlborough is however, some Council's such as Environment Canterbury have made some amendments such as the implementation of the wilding pine control programme.

Clr Faulls asked for clarification on Option 1, if Council can still work with the landowner? The biosecurity work would continue, however, in relation to this specific property, this is an active case.

Mr Harvey noted that this a complex case.

Clr Croad noted that the wilding pines are an issue and he would vote on option 1 if he could, however he is not on the Environment Committee. Clr Hope advised that Clr Croad can vote at Full Council.

Mayor Taylor noted she is happy that Council moves to the next stage.

The Mayor/Clr Faulls:

- 1. That the information be received.**
- 2. That the Council ratifies the lodgement of an Appeal with the High Court on the interim decision of Environment Court received by Council on 17 March 2023.**

Carried

ATTENDANCE: Mr Pere Hawes, Council's Manager Environmental Policy, was present for the following item.

Env-0423-353 Appeals on the PMEP M100-09-01

Mr Hawes noted that the purpose of the report is to inform the Committee of progress with resolving appeals made to the Environment Court on the PMEP.

51 notices of appeal on the PMEP were lodged with the Environment Court. Mediation on all topics has now occurred, except for Topic 2: Water Allocation and Use. Mediation on Topic 2: Water Allocation and Use is currently occurring. Good progress has been made in resolving appeals. Since the last report to the Environment and Planning Committee on 2 February 2023, six further consent memoranda have been submitted to the Environment Court. Since the last report to the Environment and Planning Committee on 2 February 2023, the Court has issued nine further consent orders. The consent orders resolve appeals in a wide variety of topics.

To date, ten appeals have been resolved in full and four appeals have been withdrawn. There are a total of 37 notices of appeal remaining. A total of 34 consent orders have been issued by the Environment Court. All future consent orders issued by the Environment Court will be reported to the Committee through subsequent updates. Discussions during mediation have been positive and outcome focussed, and substantial progress has been made on resolving appeals. All appeal points have now been considered through mediation processes or are in the process of being considered.

Mr Hawes noted positive feedback from the Minister on the excellent work from MDC staff and wished for this to be noted. Cllr Hope recommended that the MDC media team write a positive article on the work completed by Mr Hawes and his team.

Cllr Adams also congratulated the team for their input and hard work and having only one appeal from all the work completed.

**Cllrs Hope/Fauls:
That the report be received.**

Carried

NB: The order of the agenda was altered at this point and the following Item 14 was heard ahead of Item 12.

ATTENDANCE: Ms Claire Frooms, Council's Compliance Monitoring Team Leader, was present for the following item.

**Env-0423-354 New Zealand King Salmon Compliance
Monitoring 2021/2022 U140294, U140295, U140296,
U160675, U150081, U040412, MFL001, MFL456**

Ms Frooms noted that the purpose of this report is to provide the Environment and Planning Committee with an overview of the compliance levels achieved by the New Zealand King Salmon (NZKS) Marine Farms in the Marlborough Sounds following monitoring conducted by Cawthron Institute and SLR in 2021/2022. To highlight this report a PowerPoint presentation was shown (Presentation filed in CM Record No. 2380690)

Nine Marlborough Sounds New Zealand King Salmon marine farms were assessed during this monitoring period and as a result a number of non-compliances with resource consent conditions were identified.

The overall compliance assessment of all nine farms generated one significantly non-compliant, two non-compliant and two technically non-compliant marine farms. The remaining farms were either compliant or had no relevant resource consent conditions. These assessments were reviewed by Council's Compliance QA Peer Review Panel where one infringement notice was recommended for the significantly non-compliant farm and a letter of direction was recommended in response to the other non-compliances.

An infringement and a letter of direction have been issued to the New Zealand King Salmon Company in relation to the non-compliances identified during the 2021-2022 monitoring period.

**Cllrs Minehan/Innes:
That the information be received.**

Carried

ATTENDANCE: Ms Georgia Murrin, Council's Environmental Health Officer, was present for the following item.

Env-0423-355 Gambling Venue Policy Review E350-004-009-02

Ms Murrin noted that the purpose of the report was to provide Council with an update on the proposed changes to the Gambling Venue Policy which is required to be reviewed every three years. To highlight this report a PowerPoint presentation was shown (Presentation filed in CM Record No. 2380697)

Ms Murrin described the three options for Council to consider.

Option one – Adopt a sinking lid approach for the number of class 4 venues and gaming machines. Therefore, Council will not grant consent for the establishment of any additional Class 4 venues or additional gaming machines, including Class 4 machines in TAB venues under this policy. Ms Murrin felt this option would be the more suitable option.

Option two – Cap the total number of gaming machine numbers to current machines in use in the district currently. Cap the number of gaming machines to 165.

Option three - Retain the existing Class 4 Policy but amend wording to allow for the new Racing Industry Act 2020.

The proposed timeframes are:

- Advertise the Draft Policy and Statement of Proposal (Date TBC) if proposal is ratified at full Council on 18 May 2023
- Submission period date TBC
- Hold a community meeting (date TBC) during submission period.
- Hearing to be held as soon as possible after submission period.
- Sub-committee to deliberate and make recommendation (date TBC).
- Council to finalise Gambling Venue Policy 2023 (date TBC).
- Formally adopt the new policy in accordance with our governance requirements and Local Government Act. And send a copy of the Policy to DIA (date TBC).

Clr Arbuckle suggested Option 4 should be off the table and suggested Option 2 is best. Clr Hope advised that once this goes out for consultation, it will become evident what the public would like to vote on.

Clr Adams asked if the public would see all three options? Ms Murrin noted that the public will see all of the options.

**Clrs Sowman/Innes:
That Council:**

1. **Approve consultation on the proposed Gambling Venue Policy 2023 using special consultative procedures under s83 of the Local Government Act 2002.**
2. **Approve a sub-committee of Clrs Barbara Fauls (Chair), Thelma Sowman and Ben Minehan to hear and deliberate on any submissions received on the proposed policy changes.**

Carried

ATTENDANCE Clr Sowman withdrew from the meeting at 12.28 pm.

ATTENDANCE: Ms Vanessa Hantz, Council's Compliance Monitoring Administration Officer, was present for the following item.

Env-0423-356 Mooring Monitoring Overview E360-006-02

Ms Hantz noted that the purpose of this report is to provide an overview of the compliance monitoring undertaken by the Environmental Protection team of moorings in Marlborough's coastal marine area. To highlight this report a PowerPoint presentation was shown (Presentation filed in CM Record No. 2380694)

It is the responsibility of the resource consent holder to provide the mooring certificate to Council. However, the mooring providers have developed a good working relationship with Council Environmental Protection team and generally provide these certificates directly to Council on behalf of the consent holder. Between 1 January 2022 and 31 December 2022 Council received approximately 1,300 inspection certificates. Mooring certificates are reviewed and monitored against the conditions of resource consent to ensure compliance has been achieved. Common conditions assessed are the coordinates, vessel length, and swing circle radius. The vessel length is assessed on the maximum vessel length granted even if the applicant has a smaller vessel. This is due to other vessels being able to use the mooring up to the maximum vessel length. During the 2022 year approximately 1,200 certificates were acknowledged as compliant. This being 92% compliant with their conditions.

Clr Minehan asked how many mooring providers are in Marlborough. Ms Hantz noted there are three.

**Cirs Minehan/Faulls:
That the information be received.**

Carried

Env-0423-357 Information Package -

**Cirs Hope/J Arbuckle:
That the Regulatory Department Information Package dated 20 April 2023 be received and noted.**

Carried

The meeting closed at 12.36 pm.

Record No: 2380686

5. Committee Reports

5.3 Economic, Finance & Community Committee

Economic, Finance & Community Committee Meeting held on 2 May 2023
(Minute Nos. EF&C-0523-360 to EF&C-0523-374)

**Minutes of a Meeting of the
ECONOMIC, FINANCE & COMMUNITY COMMITTEE
held in the Council Chambers, 15 Seymour Street, Blenheim
on TUESDAY, 2 MAY 2023 commencing at 9.00 am**

Present

Cirs J A Arbuckle (Chairperson), B G Dawson (Deputy), S R W Adams, S J Arbuckle, A R Burgess (from 9.10am), J D N Croad, D A Dalliesi, R J Innes, B A Fauls, G A Hope, B J Minehan, T P Sowman and Mayor Nadine Taylor

In Attendance

Messrs M F Fletcher (Chief Financial Officer), D G Heiford (Manager, Economic, Community & Support Services) and Ms N Chauval (Committee Secretary)

Apologies

Cirs Croad/Adams:

That the apology for absence from Cirs J C Rosene and M R K Flight be received and sustained.

Carried

PF&C-0523-360 Declaration of Interests -

Clr Fauls declared an interest in Item 7 – Destination Marlborough

ATTENDANCE: Ms Laura Skilton, Transport Planner Marlborough Roads, was present for the following item.

PF&C-0523-361 Speed Management Plan R800-006-002-02

Members noted that the purpose of the report was to receive the draft Speed Management Plan and to allow public consultation on the document to commence. The Marlborough Regional Speed Management Plan (April 2023) was separately attached to the agenda for members' information.

Ms Skilton advised that as part of the Land Transport Rule: Setting of Speed Limits 2022, all councils in New Zealand are required to prepare speed management plans to consider how safety infrastructure and speed limits can make our roads safer. The legislation also requires that a territorial authority must consult in accordance with the consultation principles specified in section 82 of the Local Government Act 2002.

It was noted that in preparing the draft Speed Management Plan, the Consultant has engaged with the Council's Small Townships Project Manager, Council's Road Safety Co-Ordinator, Police and Marlborough Roads staff.

Members were advised that a Speed Management Plan is a 10 year plan that will be reviewed every three years. The three year cycle aligns with the Waka Kotahi National Land Transport Plan (NLTP). Projects in the Speed Management Plan will be eligible for funding assistance from Waka Kotahi and will be included in the Regional Land Transport Plan but this does not guarantee that funding assistance from the National Land Transport Fund will be received.

Ms Skilton advised that the draft Speed Management Plan has been sent to schools and the feedback received has been positive and a number of suggestions have been included in the plan.

Ms Skilton has meet with the Manager of Māori Partnerships who has discussed the implications with maraes, no feedback on the outcome of the discussions has been received.

It was noted that the submission period is scheduled for four weeks and must start no later than 5 October and be submitted to Waka Kotahi in March 2024. Members noted that the document is large and

comprehensive and following discussion on the length of the consultation period supported the four week consultation timeframe. Ms Skilton advised that all groups, schools and organisations contacted during the review will be advised when submissions open.

It was noted there were roads and communities not currently identified for a speed limit change and it was queried whether submissions to that fact would be considered. Ms Skilton advised that draft submission questions have been compiled which includes a question cover any new roads to be included for the next Speed Management Plan review.

Members acknowledged the amount of work that has gone into the Plan and noted having workshops to work through the document was extremely valuable and now look forward to receiving the community's feedback.

Cllrs Dawson/Croad:

1. **That the draft Speed Management Plan is received.**
2. **That Council agree to proceed with consultation on the recommendations contained in the report.**

Carried

ATTENDANCE: Mr Steve Murrin, Marlborough Roads Manager, was present for the following item.

PF&C-0523-362 Subdivision Connection Road
R800-006-002-02, R800-007-02

Members noted that the purpose of the report was to seek Council support for the construction of a new link road to connect the new Muller Road Subdivision to the Wai-iti Subdivision and determine how the bridge could be funded. An aerial identifying the connection between the two subdivisions was included in the agenda item for members' information.

By way of background it was reported that the Council had approved two adjoining subdivisions that run either side of the town branch drain. A new connection between the two subdivisions will provide better access and connectivity for the residents in the area. It was noted that the subdivisions were approved without the requirement for this link so the link would need to be funded by Council.

It was noted that it is unlikely a new bridge would receive subsidy from Waka Kotahi as all new bridges need to be supported by a Business Case, or at the least included within an endorsed Transportation Study. Marlborough Roads has received a preliminary cost estimate for this work to be in the region of \$500,000.

Mr Murrin advised that since the paper was put together there has been further discussion on the proposal noting that there may be the possibility of the land to the east of the subdivision being developed. It was noted that it would require a Plan change but if the development did proceed it was considered a more suitable place for a road bridge.

Mr Murrin suggested that further work needed to be undertaken to consider location of the bridge, traffic flows, options for a walking and cycling bridge and costings.

The Mayor noted Mr Murrin's suggestions and raised whether it would be prudent to let the item lie on the table for further work to be carried out.

Members discussed the proposal.

Mr Murrin advised that he would be able to investigate the options relatively quickly. It was noted the further work to determine the impacts can be done within the existing consultancy budgets. Members noted that it would be good to have some connection to the east whether the subdivision proceeds or not.

At the conclusion of the discussion the following motion was put.

Cllrs Hope/Dawson:

That the Committee support in principle the need for a connection between the two subdivisions, either traffic bridge or walking/cycling bridge, and for Marlborough Roads to investigate connection options, design options and funding options and to report back to the Assets & Services Committee when options have been reviewed.

Carried

ATTENDANCE: Ms Samantha Young, Council's Regional Events Advisor, was present for the following item.

PF&C-0523-363 Regional Events Update E100-002-011

Ms Young advised that the purpose of the report was to provide an update on the activities of Council's Regional Events Advisor (REA) and Marlborough's events sector. To highlight this report a powerpoint presentation was shown (presentation filed in CM Record No. 2386990).

The presentation provided members with an overview of the last three major events held in Marlborough and Ms Young explained the tools used to evaluate the events and the economic impacts they have. All three events had improved results from previous years. It was noted that data for the Classic Fighters Omaka Airshow wasn't available for this report but will be provided to the next meeting.

Clr Dalliessi thanked Ms Young for the information provided and queried whether information on the average total transactions per day was available. Ms Young agreed to provide the additional information.

Ms Young discussed the report on the Follow-ME Website analytics contained in the Information Package. It was noted that once the Brand Refresh is finalised there will be a campaign to highlight the Follow-ME page.

Cirs Croad/Dalliessi:
That the information be received.

Carried

PF&C-0523-364 Commercial Events Fund E100-002-006-27

The Minutes of the Commercial Events Fund Sub-Committee meeting held on 3 April 2023 were attached for ratification by the Committee.

Cirs J Arbuckle/Innes:
That the Minutes of the Commercial Events Fund Sub-Committee meeting held on 3 April 2023 be ratified.

Carried

ATTENDANCE: Mr Bruce Moffat, General Manager Destination Marlborough, was present for the following item.

**PF&C-0523-365 Destination Marlborough – 2023/24 Draft
Business Plan E100-004-01**

Mr Heiford noted that the purpose of the report was for the Destination Marlborough – 2023/24 Draft Business Plan to be presented to the Committee. The draft Destination Marlborough Annual Plan overview was included with the agenda item.

As it was the first report to the Committee by the new General Manager for Destination, Bruce Moffat, Mr Heiford took the opportunity to introduce him to members and Mr Moffat provided a brief work history.

To highlight the report a powerpoint presentation was shown (presentation filed in CM Record No. 2387085).

At the conclusion of the presentation the Mayor thanked Mr Moffat for his report on the Draft Business Plan and requested that a summary / report on the 2022/23 Cruise Ship season and an outline plan for managing the 2023/24 Cruise season be presented at a future Committee meeting.

The Mayor/Clr Croad:
That Destination Marlborough Trust's draft business plan for 2023/24 be received.

Carried

NB: Clr Faulls declared an interest in the above Destination Marlborough – 2023/24 Draft Business Plan.

PF&C-0523-366

Housing for Seniors

D050-001-H01

The Minutes of the Housing for Seniors Sub-Committee meeting held on 23 March 2023 were attached for ratification by the Committee.

Clrs Croad/Dalliessi:

That the Minutes of the Housing for Seniors Sub-Committee meeting held on 23 March 2023 be ratified.

Carried

PF&C-0523-367

CBD and Parking Sub-Committee

D050-001-P01

The Minutes of the CBD and Parking Sub-Committee meeting held on 31 March 2023 were attached for ratification by the Committee.

It was requested that the Urbanism Plus reports be circulated to members and for members to identify any outstanding projects.

Mr Lyall provided further details on the Armourguard contract noting that the contract is up for renewal and will be reviewed to consider delivery options.

The Mayor/Clr Hope:

That the Minutes of the CBD and Parking Sub-Committee meeting held on 31 March 2023 be ratified.

Carried

Postscript: Mr Neil Henry circulated, via email, the following reports to Councillors – Blenheim Town Centre Report (2009), Blenheim CBD Streetscape Design Brief (2011)

ATTENDANCE: Meeting adjourned at 10.24 am and resumed at 10.40 am

PF&C-0523-368

Audit & Risk Sub-Committee

D050-001-A05

The Minutes of the Audit & Risk Sub-Committee meetings held on 21 April 2023 and 28 March 2023 were attached for ratification by the Committee.

Clrs J Arbuckle/Croad:

That the Minutes of the Audit & Risk Sub-committee meetings held on 21 April 2023 and 28 March 2023 be ratified.

Carried

PF&C-0523-369

**Financial Report for Council – Period Ended
28 February 2023**

F275-001-01

Mr Fletcher presented Council's financial report for the period ended 28 February 2023.

Members were advised that the major variances between actual and budget were higher than anticipated development contributions and vested assets as subdivisions have reached the title issue stage requiring contributions to be made; receipt of un-budgeted Affordable Water Reform Council Transition Support Package Funding. Lower than anticipated roading reinstatement expenditure due to the impacts of the August 2022 flood event. In the 2022/23 year \$30.2M was spent on the July 2021 and August 2022 events with the initial \$85.3M approved by Waka Kotahi now being utilised for both events. Accounting entries will be made at year end to move some of these costs to capital. Lower than anticipated grants uplifted by community-based organisations and external and internal interest expenses are lower than anticipated due to the savings, deferrals and delays in past capital expenditure programmes resulting in less external borrowings.

Members were advised that the Rates Team are continuously following up with these rate payers and working with them to provide suitable repayment options if required. It was noted that the CSOs team actively encourage direct debit options and there is a 'Ways to Pay Rates' page on Council's website.

Members were advised that there are currently 12 properties with postponed rates. During this quarter, no new applications have been processed, nor are there any ending applications. One rate payer re-paid their postponed rates in full due the sale of their property.

Cllrs J Arbuckle/Sowman:
That the information be received.

Carried

PF&C-0523-373 Information Package -

Cllrs Croad/Dalliessi:
That the Economic, Finance & Community Information Package dated be received and noted.

Carried

PF&C-0523-374 Decision to Conduct Business with the Public Excluded -

Cllrs J Arbuckle/Croad:
That the public be excluded from the following parts of the proceedings of this meeting, namely:

- Overdue Debtors
- Trade Show and Expo

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General Subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for the passing of this resolution
Overdue Debtors	In order to protect the privacy of natural persons, as provided for under Section 7(2)(a).	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under Section 7 of the Local Government Official Information and Meetings Act 1987.
Trade Show and Expo	To enable the Council, as holder of the information, to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) as provided for under Section 7(2)(i).	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under Section 7 of the Local Government Official Information and Meetings Act 1987.

Carried

The meeting closed at 11.38 am.

Record No: 2387359

Annexure

Public Forum

1. **Greg Colquhoun (Renwick Smart + Connected)** – Topic: Update on recent St Patricks Day event. Presentation notes, attached as Appendix 1.
2. **Raymond Madsen (Marlborough Boxing Club)** – Topic: Update following his submission to the LTP 2021-2031

The Chair approved the following speaker who had not booked a time slot for the Public Forum.

3. **Robert Terry** – Topic: Recent compliance issue / court case regarding breaching a trespass notice. The Chair agreed to follow up.

Appendix 1

(FOR THOSE WHO DONT KNOW ME MY NAME IS GILL COLQUHOUN AND I AM PASSIONATE ABOUT THE WONDERFUL VILLAGE WE CALL RENWICK.)

- My personal opinion is that community groups such as Renwick Smart and Connected should be more pro-active.

Sitting around a table once a month, bowling along with the status-quo (I call it static-quo) is not enough to get the whole community involved. From the youth thru to the elderly. Especially the youth. Our communities need to be vibrant and inclusive.

As groups we must have much more conversation with Council. How can Council even begin to help and advise until new, inovative ideas are presented to them.

- When I first proposed St. Patricks Day celebrations in Renwick I could sense many of the long term residents around the table thinking " What does this new boy in town think he is proposing. That wont work "

The fact that I had managed hotels and organised St Patricks Day in them for many years did not seem a redeeming factor. After all the new boy in town happens to have experienced a bit in his 72 years.

We have to embrace new ideas that will enhance our communities not put them down.

- A well know member of the Renwick community Mr Blue Blick talked to me on Anzac Day and congratulated me on how St. Patricks Day went.

He said the problem of getting new projects off the ground. is not a new one and the struggle he and others had getting peoples support in a new sports hub in Renwick year ago.

Finally we must also get local bussinesses more involved. I know many didnt even know our community group existed. or how they could contribute.* At our next meeting

- I intend to propose a youth and retired persons run community garden plus a look and learn scheme within Renwick bussinesses where older Renwick school pepils can buddy up with say butcher/hairdresser landscaper/wine maker to give them a view of working life.

* Concerned at decline in horticulture in our area.

6. Marlborough Navigation Safety Bylaw

(Clr Innes) (Report prepared by Jake Oliver)

H100-001-01

Purpose of Report

1. The purpose of this report is to brief Council on the proposed replacement navigation bylaw for the region and seek approval to commence a special consultative procedure on the replacement bylaw.

Executive Summary

2. The navigation safety bylaw assists with the regulation of shipping and activities on the waters of the region.
 3. The Navigation Bylaw 2009 came in force on 1st July 2010. The bylaw contains rules relating to maritime and navigation safety and is in need of replacement with some minor amendments.
 4. The changes made to this version of the bylaw include:
 - a) Correcting information related to the working channel for Picton Harbour Radio.
 - b) Incorporating water ski access lanes that are not currently included in schedule 4 of the bylaw.
 - c) Updating fees and charges levied on activities.
 - d) Making a range of minor editing changes to improve consistency and readability.
 5. There are areas of the bylaw that will need greater attention and in-depth consultation with operators and members of the community. These will be pursued as amendments at a later date. These are anticipated to include requirements around lifejackets, carriage of communications, vessel identification, and carriage of AIS (automatic identification system), common passage plans and commercial shipping operations.
-

RECOMMENDATIONS

1. **That the Council determines that in the absence of a navigation bylaw made in accordance with the Maritime Transport Act 1994, the Council (and Harbourmaster) have limited powers to regulate shipping and other activities on the water in the Marlborough region.**
2. **That the Council determines that a navigation bylaw in accordance with the Maritime Transport Act 1994 is the most appropriate way of addressing the perceived problem (regarding otherwise limited powers to regulate shipping and navigational safety).**

If the above recommendations are made:

1. **That the Council adopts and approves the draft Statement of Proposal and Bylaw attached to this paper as Appendices 1 and 2 respectively.**
 2. **That the Council authorises the Harbourmaster to make any required minor formatting changes and correction of errors in the draft Bylaw and Statement of Proposal.**
 3. **That a special consultative procedure in accordance with section 87 of the Local Government Act 2002 be commenced, by public notice of the final Statement of Proposal and draft Bylaw on 1 June 2023.**
 4. **A submission period opens on 1st June 2023 and closes on 1st October 2023.**
 5. **That if necessary a sub-committee is formed to hear and deliberate on any submissions made, consisting of a minimum of 3 Councillors.**
-

Background/Context

6. The Navigation Bylaw 2009 came in force on 1st July 2010. The bylaw contains rules relating to maritime and navigation safety.
7. Section 159 of the Local Government Act 2002 requires local authorities to review a bylaw made by it under this Act [LGA 2002], the Maritime Transport Act 1994, or the Local Government Act 1974 no later than 10 years after it was last reviewed as required by section 158 or section 159..
8. Section 33M of the Maritime Transport Act 1994 enables regional councils, in consultation with the Director of Maritime NZ to make bylaws to:
 - a) regulate and control the use or management of ships:
 - b) regulate the placing and maintenance of moorings and maritime facilities:
 - c) prevent nuisances arising from the use of ships and seaplanes:
 - d) prevent nuisances arising from the actions of persons and things on or in the water:
 - e) reserve the use of any waters for specified persons, ships, or seaplanes:
 - f) in relation to boat races, swimming races, or similar events,—
 - i) prohibit or regulate the use of ships:
 - ii) regulate, or authorise the organisers of an event to regulate, the admission of persons to specified areas:
 - g) regulate and control the use of anchorages:
 - h) prescribe ship traffic separation and management schemes:
 - i) specify requirements for the carriage and use of personal flotation devices and buoyancy aids on pleasure craft:
 - j) require the marking and identification of personal water craft.
9. A review of the bylaw commenced in 2017. The review process was not followed through to a final conclusion because, whilst working through the bylaw making process, a number of new issues arose in respect of navigation safety issues arising from the emergence of the iRex project.
10. Owing to the delays to projects within the region, largely due to COVID, the current 2009/2010 bylaw has now expired.
11. This means that the consultation process previously conducted in 2017 is no longer suitable for implementation of a reviewed instrument and a new review and consultation process for a replacement bylaw is required.
12. Given that it is important to have a new bylaw in place as soon as possible (because the current bylaw has expired) Council staff propose to roll over into a replacement bylaw as much of the 2009 bylaw as possible with some minor amendments for clarity.
13. The intention then is to subsequently pursue any additional matters that need addressing as the future requires, through bylaw amendment processes. For example, it is anticipated that this may include the implementation of the Marlborough Sounds Common Passage Plan, lifejackets, carriage of communications, vessel identification, carriage of AIS, common passage plans and commercial shipping operations.

Perceived problem

14. Section 155 of the Local Government Act 2002 requires that a local authority, before commencing the process for making a bylaw, determines whether a bylaw is the most appropriate way of addressing the perceived problem.
15. In this case, without a bylaw under the Maritime Transport Act 1994 in place (as is currently the case), the Council (through its Harbour master) has only limited powers to control the operation of ships (both commercial and recreational). In the absence of a bylaw, the Council does not have the ability to effectively control the matters set out above in section 33M of the Maritime Transport Act.
16. In a region with as busy waters as Marlborough (with both commercial and recreational activity), this may create issues as these activities may conflict. For example, without a bylaw the Council is not able to restrict areas in which people may be able to swim, or to waterski, which may create a navigational hazard for larger ships using the harbour's facilities, as well as a danger to members of the public undertaking these activities.

Is a bylaw the most appropriate way of addressing the perceived problem?

17. In order to determine whether a bylaw is the most appropriate way of addressing the perceived problem, it is necessary to consider the relevant (and reasonably practicable) options.
18. The relevant options here are:
 - a) Option 1: Do nothing; and
 - b) Option 2: make a bylaw.

Option 1:

19. If the Council does nothing, the lack of regulation contributing to the perceived problem (as set out above) will continue. The Council will have limited powers to regulate the various shipping and recreational activities commonly occurring in the Marlborough region, and this may contribute to health and safety issues.
20. Staff have considered non-regulatory options for addressing the problem. Staff do not consider that non-regulatory measures will be sufficient to adequately address the problems. The difficulty with any voluntary compliance regime is that individuals may not have an adequate incentive to comply, and therefore this could create a danger to the public. Bylaws are the most effective method for Council to achieve navigation and maritime safety.

Option 2:

21. Bylaws in relation to navigational safety and other matters are specifically anticipated by the Maritime Transport Act 1994. The Council has previously had a Bylaw in place that allowed it to regulate these activities, and the experience generally has been that this has been an effective measure to enable the Council to safely regulate the various activities that co-exist within the Marlborough waters.
22. Through a bylaw, the Council is able to regulate the matters set out above in section 33M of the Maritime Transport Act 1994 and ensure that any risks to safety or navigational hazards are minimised.
23. Adopting a bylaw based on the previous 2009 version, with minor updates, allows the Council to ensure that minimum protections for navigational hazards and health and safety remain in place, before conducting a wholesale review of the provisions, which is likely to be necessary in the medium term.

Conclusion regarding bylaw as an appropriate mechanism

24. Based on the assessment of the options as set out above, staff consider (and consequently recommend to the Council) that:

- a) in the absence of a navigation bylaw made in accordance with the Maritime Transport Act 1994, the Council (and Harbourmaster) have limited powers to regulate shipping and other activities on the water in the Marlborough region; and
- b) a navigation bylaw in accordance with the Maritime Transport Act 1994 is the most appropriate way of addressing the perceived problem (regarding otherwise limited powers to regulate shipping and navigational safety).

Proposed Bylaw and consultation

- 25. In the event that the Council agrees with the staff recommendation in respect of a bylaw being the most appropriate way to address the perceived problem, staff have prepared a draft Bylaw and Statement of Proposal. Under s 155 of the LGA Council is also required to consider if the proposed bylaw is the more appropriate form of bylaw and if it gives rise to any implications under the New Zealand Bill of Rights Act 1990.
- 26. Before preparing the draft bylaw, staff considered the various reasonably practicable options:
 - a) Option A: make a bylaw based on the 2009 Bylaw in the interim, with the intention of conducting a more fulsome review at a later date; or
 - b) Option B: conduct a detailed review to consider whether amendments may be desirable to all of the existing bylaw provisions.

Option A:

- 27. While this option may mean that the Bylaw ultimately adopted may require review ahead of its scheduled review date under the Local Government Act, this approach allows the Council to quickly put in place a bylaw to address the perceived problem outlined above.
- 28. This option is also more consistent with the regulatory environment that users of the relevant waters have been used to operating under, so it is considered will present limited implementation issues.
- 29. Staff consider that this review does present an opportunity to address some minor issues with the current Bylaw and make some small changes to improve the workability of the current bylaw. The key changes proposed include:
 - a) Correcting information related to the working channel for Picton Harbour Radio.
 - b) Incorporating water ski access lanes that are not currently included in schedule 4 of the bylaw.
 - c) Updating fees and charges levied on activities; and
 - d) Making a range of minor editing changes to improve internal consistency, readability and consistency with terminology used in the Maritime Transport Act and associated regulations.

Option B:

- 30. This option would allow for the Council to only go through one consultation process.
- 31. However, a more wholesale review of the provisions of the bylaw would require a more in-depth and iterative consultation process (both with the general public, but also likely input required from key stakeholders as part of the drafting process prior to adopting the draft bylaw for consultation). The special consultative procedure would be required. In the circumstances, where the 2009 Bylaw is no longer in force, this may leave a regulatory gap while the more in-depth consultation process is occurring.
- 32. There are also likely upcoming changes to the regulatory environment in this area that will necessitate further updates to the bylaw in the medium term, regardless of what changes are implemented at this juncture. This includes anticipated updates by Maritime New Zealand to Part 91 of the Maritime Rules and changes to requirements around lifejackets, carriage of communications, vessel identification, and

carriage of AIS, common passage plans and commercial shipping operations. These proposed changes will require greater attention and in-depth consultation with operators and members of the community.

33. It is recommended that once the bylaw is in effect that these areas are developed as amendments to the bylaw.

New Zealand Bill of Rights Act 1990 considerations

34. Staff have considered whether the proposed bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990. This requires consideration of whether the Bylaw limits any of the rights or freedoms contained in the Act and, if so, whether this limitation is “demonstrably justifiable in a free and democratic society”.
35. The bylaw could potentially limit rights under NZBORA. For instance, the right to be secure against unreasonable search and seizure (s 21) may be limited because the Bylaw enables the Harbourmaster remove or move a vessel in certain circumstances, and the right to freedom of movement (s 18) may be limited where the Bylaw restricts movement or access to certain locations to manage the use of space and ensure safety for events.
36. Staff consider these potential limitations are justified because they are rationally connected to the purpose of the bylaw, do not limit the right or freedom more than necessary to achieve the purpose, and are proportionate to the objective of ensuring navigational safety in the Marlborough region. Without these potential limitations, there would be a risk of nuisance, damage, harm and fatalities.

Conclusion regarding options

37. Staff recommend that, due to the need to ensure a working bylaw is in effect as soon as possible and in light of regulatory changes on the horizon that will require further update of the bylaw, Council proposes a Bylaw based largely on the previous 2009 bylaw with various amendments for clarity and to address particular matters of concern.
38. For these reasons, staff recommend that Option A is adopted, and on that basis have prepared the draft bylaw and Statement of Proposal.
39. The draft statement of proposal and Bylaw are attached to this paper as Appendices 1 and 2 respectively.

Consultation

40. Section 156 of the Local Government Act 2002 requires that when making or amending a bylaw made under that Act, a local authority must use the special consultative procedure if:
- a) The bylaw concerns a matter identified in the local authority’s policy under section 76AA as being of significant interest to the public; or
 - b) The local authority considers that there is, or is likely to be, a significant impact on the public due to the proposed bylaw or changes to the bylaw.
41. Staff have considered whether either of these two criteria are met in relation to the proposed Bylaw.
42. In this case, staff consider:
- a) Navigation safety and the regulation of vessels in Marlborough’s waters is not a matter listed as automatically significant under paragraph 12 of the Council’s Engagement and Significance Policy 2021; and
 - b) As the proposed Bylaw largely mirrors the 2009 Bylaw that was previously in force, and the changes are generally minor and/or to improve the clarity of the Bylaw, there would not be a significant impact on the public due to the proposed bylaw.

43. Despite this, staff recommend that the special consultative procedure is used in accordance with section 87 of the Local Government Act, as given that there is no bylaw currently in place this will cover the situation where there may be a significant impact on the public.
44. As part of this process, in order to ensure that the community is fully informed as to the Council's intent and reasons for proposing the proposed Bylaw, staff have prepared a draft Statement of Proposal that can be published to assist with the consultation process.

Proposed timing and method of consultation

45. Further detail on the proposed timing and method of consultation is set out in the attached Statement of Proposal.
46. In summary, staff propose:
 - a) A public submission period open from 1 June 2023 and closing on 1 October 2023;
 - b) The hearing of submissions by a subcommittee appointed by the Council;
 - c) That subcommittee making recommendations to the Council in relation to the potential adoption of the proposed Bylaw, including any recommended amendments following the hearing of submissions.

Presentation

A presentation will be given by the Harbourmaster to provide further context as to the perceived problem, and the appropriateness of a bylaw to address this problem.

Attachments

Attachment 6.1 – Review of the MDC Navigation Bylaw 2009 page [40]

Attachment 6.2 – Navigation Bylaw 2023 page [50]

Author	Jake Oliver, Harbour Master
Authoriser	Hans Versteegh, Manager of Environmental Policy, Science and Monitoring

**REVIEW OF THE MDC
NAVIGATION BYLAW 2009**

This is the Statement of Proposal for the Replacement

2023



Introduction

The Marlborough District Council (**Council**) is proposing to replace its 2009 Navigation Bylaw.

Under the Maritime Transport Act 1994 (**MTA**), the Council has the authority to regulate ports, harbours, waters and maritime-related activities in the Marlborough region.

Under section 33M of the MTA, the Council has the power to make bylaws for the purpose of ensuring maritime safety in the region.

In 2010 the Council adopted the Navigation Bylaw 2009 which covered all areas in Marlborough within the specified harbour limits. That bylaw came into force on 1 July 2010.

We want to know what you think about our proposed bylaw.

Our Proposal

We are proposing that we replace the Navigation Bylaw 2009 with the Draft Bylaw attached to this Statement of Proposal.

We want to replace the Navigation Bylaw 2009 to maintain a similar bylaw to the 2009 Bylaw, but with minor amendments to address key issues (ahead of a broader review process) and improve the clarity of the Bylaw.

Have Your Say

The views of people who live, work and play in Marlborough are important.

Council would like your feedback on the proposed changes and proposed new bylaws.

Anyone can make a submission. Your submission can support or oppose the proposals.

You can make a submission online at www.marlborough.govt.nz or you can collect a form from Council offices.

Completed forms can be emailed to bylawsubmissions@marlborough.govt.nz, submitted by hand, or posted to the Picton or Blenheim Council offices:

15 Seymour Street	67 High Street,
Blenheim 7201	Picton

Your submission should clearly state—

- the part of the proposed Bylaw the submission point relates to;
- whether you support or oppose the provision;

- the reasons for supporting or opposing the provision; and
- whether or not you wish to be heard in support of your submission.

The deadline for submissions is 5pm on 1 October 2023

What Happens Next?

If you have indicated on your submission form that you would like to make a verbal submission we will contact you to arrange a time for you to speak. The hearing on submissions will be in October 2023.

Timeline for the review

Action	Date
Submissions on the proposed Bylaws and Statement of Proposal are open	1 June 2023
Submissions close	1 October 2023
Hearings before Council Hearing Committee	October 2023
Council resolution revoking, continuing, amending or replacing bylaws	On a date to be determined by Council
Reviewed bylaws come into force	On a date to be determined by Council

Where can I get more information?

Copies of the current Bylaw, the proposed bylaw and this Statement of Proposal can be viewed:

- on Council's website at www.marlborough.govt.nz;
- at Council Offices at 15 Seymour Street, Blenheim or 67 High Street, Picton;
- at Council's libraries in Blenheim (33 Arthur Street) or Picton (67 High Street);
- by calling Council on 03 5207400
- by emailing bylawsubmissions@marlborough.govt.nz and asking for a copy to be sent to you.

Attachments:

Details of the Proposals (including a summary, reasons for the proposal and an analysis of reasonably practicable options considered by the Council)

Proposed bylaw

Proposal in Summary

A summary of the provisions of the 2009 bylaw, and the proposed amendments to those provisions incorporated within the Draft Bylaw, is set out in the table below.

Existing Bylaw	Proposal
Part 1	
4 - Definitions	Amendments made to definitions to ensure correct to legislation. Hot work definition expanded.
Part 2 – General Matters	
2.1 – Personal flotation devices (Life Jackets) (part 2.2)	No amendments proposed
2.2 - Swimming & diving around wharves (part 5.1)	No amendments proposed
2.3 – Use of vessel engine around wharves, ramps	No amendments proposed
2.4 – Vessels which are not seaworthy (part 3.1)	No amendments proposed
2.5 – Seaplanes (part 3.7)	No amendments proposed
2.6 – Vessels to be adequately moored or secured (part 4.1)	No amendments proposed
2.7 – Prohibited and restricted anchorages (part 4.2)	No amendments proposed
2.8 – Obstructions (part 3.8)	No amendments proposed
2.9 – Notification of collisions and accidents (part 2.12)	No amendments proposed
2.10 – Aids to Navigation (part 3.4)	No amendments proposed
2.11 – Sound and light signals (part 2.11)	No amendments proposed
2.12 – Timber and logs	No amendments proposed
2.13 – Discharge of firearms	No amendments proposed

(part 3.6)	
Part 3 – Operating requirements – all vessels	
3.1 – Minimum age for operating powered vessels (part 2.3)	No amendments proposed
3.2 – Speed of vessels (part 2.4)	No amendments proposed
3.3 – Vessels to be identified (part 2.8)	No amendments proposed
3.4 – Lookouts on vessels used for water skiing and towing (part 5.2)	No amendments proposed
3.5 – Water skiing or towing between sunset and sunrise (part 5.3)	No amendments proposed
3.6 – Access lanes (part 5.4)	Amend to recognise access lanes are established and noted in schedule 4.
3.7 – Conduct in access lanes (part 5.5)	No amendments proposed
3.8 – Marking of access lanes	No amendments proposed
3.9 – Reserved areas (part 5.7)	No amendments proposed
3.10 – Reserved areas for special events (part 5.6)	No amendments proposed
3.11 – Conduct in reserved areas (part 5.5)	No amendments proposed
3.12 – Marking of reserved areas	No amendments proposed
3.13 – Collision prevention (part 2.10)	No amendments proposed
3.14 – Duty of master of a vessel under 500 gross tonnage	No amendments proposed
3.15 – Moving prohibited zone	No amendments proposed
3.16 – Dive operations (part 5.9)	No amendments proposed
Part 4 – Operating requirements – commercial vessels, masters and pilots	
4.1 – Directions for transiting Queen Charlotte Sound	No amendments proposed

4.2 – Tory Channel Entrance	No amendments proposed
4.3 – General Requirements	No amendments proposed
4.4 – Reporting procedures within Queen Charlotte Sound	No amendments proposed
4.5 – Radio reporting for vessels taking part in organised events within Queen Charlotte Sound	No amendments proposed
4.6 – Hazardous Cargoes, Hazardous Works and Dangerous Goods	No amendments proposed
4.7 – French Pass, and Stephens Island Passage and Cape Jackson	No amendments proposed
Part 5 - Structures	
5.1 – Structures (part 7)	No amendments proposed
Part 6 – Administrative matters (part 8)	
6.1 – Revocation of bylaws	The 2009 bylaws will be revoked
6.2 – Suspension and exemptions from this bylaw	No amendments proposed
6.3 – Application to masters and owners	No amendments proposed
6.4 – Vessels to be licensed	No amendments proposed
6.5 - Offences	No amendments proposed
6.6 – General defence	No amendments proposed
6.7 - Infringements	No amendments proposed
Part 7 – Fees and charges (part 9)	
Proposal	Include a new charge for vessels over 500 gross tonnage, commercial or private. Such vessels are not cruise cargo vessels but are commonly referred to as super yachts; charges for these vessels were overlooked in the 2009 bylaws.
Schedule 1 – Harbour and pilotage limits	
Schedule 1	No amendments proposed
Schedule 2 - Exemptions	
2.1 – Personal Flotation Devices	No amendments proposed
2.2 – Minimum age for operating powered craft	No amendments proposed
2.3 – Stephens Island Passage and Cape Jackson Exemption provisions	No amendments proposed
Schedule 3 - Forms	

3.1 – Uplifting of bylaws	New form added to reflect change form available on the MDC website
3.2 – Hot work permit	New form added to better reflect the conditions on a hot work permit and enable the system to move onto a digital platform in the future.
Schedule 4 – Access lanes	
4.1 – Water skiing, December to Easter	Amend title to state Reserved Areas – (Swimming and Water Skiing Areas)
Table - Swimming areas	No amendments proposed
Table - Water ski access lanes	Amend table title to read 1st December to Easter Monday. Expand table to recognise additional access lanes established over time. Adding: Kaipakirikiri, Okiwi Bay, Worlds End and Double Bay. Remove: Cherry Bay (Ruakaka Bay)
Schedule 5 – Fees and Charges	
Proposal	Amend by adding definitions of the activities for which fees are payable Include new charge for other vessels. Add new charge for engine immobilisation. Add charge for Harbour Protection Officer Staff Time Add charges for vessels, Tohora, Tuangi and Jet skis. Amend charge out rate for Resolution. Add charges to table for Regional On Scene Commander services.
Schedule 6 – Infringement Offences and Fees (Delete)	
Proposal	Promulgate as an infringement fees schedule
Schedule 7 – Commercial wharves where swimming or diving is prohibited (Schedule 6)	
	No amendments proposed
Schedule 8 – Tory channel (Schedule 7)	
	No amendments proposed

Legislative Requirements

When reviewing a bylaw, Council must determine:

- the bylaw is the most appropriate way of addressing the perceived problem;
- it is the most appropriate form of bylaw; and
- whether the bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990.

Reasons for the Proposal

Under the Maritime Transport Act 1994 (Act), the Council and its Harbourmaster have functions in respect of navigation safety. Section 33M of the Act provides that a regional council may make bylaws to:

- (a) regulate and control the use or management of ships:
- (b) regulate the placing and maintenance of moorings and maritime facilities:
- (c) prevent nuisances arising from the use of ships and seaplanes:
- (d) prevent nuisances arising from the actions of persons and things on or in the water:
- (e) reserve the use of any waters for specified persons, ships, or seaplanes:
- (f) in relation to boat races, swimming races, or similar events,—
 - (i) prohibit or regulate the use of ships:
 - (ii) regulate, or authorise the organisers of an event to regulate, the admission of persons to specified areas:
- (g) regulate and control the use of anchorages:
- (h) prescribe ship traffic separation and management schemes:
- (i) specify requirements for the carriage and use of personal flotation devices and buoyancy aids on pleasure craft:
- (j) require the marking and identification of personal water craft.

The Council has previously had bylaws in place in accordance with this section, with the most recent bylaw being made in 2009 (and coming into force in July 2010).

A review of this bylaw was commenced in 2017 but was not progressed further at the time due to delays in particular construction projects.

The Council is now proposing to replace the 2009 bylaw with a very similar bylaw, making only minor changes. The proposed changes relate to:

- a. Correcting information related to the working channel for Picton Harbour Radio.
- b. Incorporating water ski access lanes that are not currently included in schedule 4 of the bylaw.
- c. Updating fees and charges levied on activities.
- d. A range of editing changes to improve consistency and readability of the bylaw.

It is anticipated that further changes to the bylaw (if made) will be progressed in future, including around lifejackets, carriage of communications, vessel identification, and carriage of AIS, common passage plans and commercial shipping operations.

The Draft Bylaw proposed as this proposal is largely to retain the "status quo" until such time as further information can be obtained to progress more in-depth amendments. In accordance with section 155 of the Local Government Act 2002, the Council considered whether a bylaw is the most appropriate way of addressing the perceived problem, whether the proposed bylaw is the

most appropriate form of bylaw and whether it gives rise to any implications under the Bill of Rights Act, at its meeting on [date]. A summary of those considerations is set out below.

Is a bylaw the most appropriate way of addressing the perceived problem(s)?

The Council is responsible for promoting navigation and maritime safety. A problem may exist if the Council does not have clear regulations or statements around the particular activities that impact navigation and maritime safety, and uses of particular areas become incompatible with one another and cause danger to water users (for example, swimming in an area used for commercial boating).

The Council considered whether a bylaw was the most appropriate way of addressing the perceived problem at its meeting on 18th May 2023]. The Council considered the following options:

- a. Option 1: Do nothing;
- b. Option 2: make a bylaw.

Option 1:

If the Council does nothing, the lack of regulation contributing to the perceived problem will continue. The Council will have limited powers to regulate the various shipping and recreational activities commonly occurring in the Marlborough region, and this may contribute to health and safety issues.

Staff have considered non-regulatory options for addressing the problem. Staff do not consider that non-regulatory measures will be sufficient to adequately address the problems. The difficulty with any voluntary compliance regime is that individuals may not have an adequate incentive to comply, and therefore this could create a danger to the public. Bylaws are the most effective method for Council to achieve navigation and maritime safety.

Option 2:

Bylaws in relation to navigational safety and other matters are specifically anticipated by the Maritime Transport Act 1994. The Council has previously had a Bylaw in place that allowed it to regulate these activities, and the experience generally was that this enabled various activities to co-exist within the Marlborough waters.

Through a bylaw, the Council is able to regulate the matters set out above in section 33M of the Maritime Transport Act 1994, and ensure that any risks to safety or navigational hazards are minimised.

Adopting a bylaw based on the previous 2009 version allows the Council to ensure that minimum protections for navigational hazards and health and safety are in place as soon as possible.

For these reasons, the Council determined that a bylaw was the most appropriate way to address the perceived problem, and subsequently resolved to consult on the Draft Bylaw.

The Council also considered whether to make a new bylaw based on the 2009 bylaw with minor amendments, or to conduct a more fulsome review of the potential provisions and possible improvements.

The Council adopted the staff's recommendation at its meeting on 18th May 2023 to adopt the Draft Bylaw for consultation (based on the 2009 bylaw with minor amendments), in order to ensure that a working bylaw is in place. This was because a more wholesale review of potential bylaw provisions would require significantly more time to prepare, the problems outlined above in respect

of navigational safety would continue to occur in the meantime, and there are regulatory and practical changes on the horizon that will require further updates of the current bylaw regardless of what changes are made at the current juncture.

Are the proposed bylaws the most appropriate form of bylaw?

The proposed bylaw has been drafted following a comprehensive review of Council's bylaw-making powers.

Council considers the proposed Draft Bylaw is the most appropriate form of bylaw. The bylaw is consistent with the Council's functions in respect of navigation safety under the Act, and the reasons for which a bylaw can be made under section 33M.

Based on experience operating under the 2009 Bylaw, the Council (with input from the Harbourmaster) has proposed to make some minor amendments to the provisions as they were previously expressed in the 2009 Bylaw. These amendments are to deal with relevant key issues (as noted above), and to improve the clarity of the Draft Bylaw.

The Council will give further consideration to whether the Draft Bylaw is the most appropriate form of bylaw following receipt and consideration of submissions, prior to making any bylaw.

Do the proposed bylaws give rise to any implications under the NZ Bill of Rights Act 1990?

Council considers that any limitations on the rights and freedoms granted in the New Zealand Bill of Rights Act as a result of the proposed bylaw are no more than are reasonably necessary to achieve the purposes of the proposed bylaw of navigation and maritime safety.

The Council will give further consideration to this matter following receipt and consideration of submissions, prior to making any bylaw.



**MARLBOROUGH
DISTRICT COUNCIL**



Navigation Bylaw 2023

Marlborough District Council Navigation Bylaw 2023

I hereby certify that this is a correct copy of the Marlborough District Council Navigation Bylaw 2023.

This bylaw was made by the Marlborough District Council by resolution passed at a meeting of the council held on the, to become operative on the Day of 2023.

The common seal of the Marlborough District Council was affixed on the day of 2023 in the presence of:

Mark Wheeler

Chief Executive

1 Preliminary Provisions

1.1 Title and commencement

1. This Bylaw can be cited as the Marlborough District Council Navigation Bylaw 2023
2. This Bylaw comes into force at midnight on [insert].

1.2 Revocation and saving

1. This Bylaw revokes the Marlborough District Council Navigation Bylaw 2009.
2. All appointments, licences, orders, consents or other similar exercise of powers under the former Navigation Bylaw of the Council shall, so far as they are not inconsistent with this Bylaw, continue with like operation and effect as if they had been granted under the corresponding provisions of this Bylaw.

1.3 Areas within which this Bylaw applies

This Bylaw applies to the areas defined in Schedule 1.1 - Harbour Limits.

1.4 Definition of Terms

NB: Where a defined term below is also defined under the Maritime Transport Act 1993, the same definition is included as part of this Bylaw. Unless the context requires another meaning, a term or expression that is defined in the Act and used in this Bylaw, but not defined, has the meaning given by the Act.

- accident means an occurrence that involves a vessel and in which:
- (a) a person is seriously harmed as a result of-
 - (i) being on the vessel; or
 - (ii) direct contact with any part of the vessel, including any part that has become detached from the vessel; or
 - (iii) direct exposure to the wash of the vessel or interaction (other than direct contact) between two vessels; or
 - (iv) being involved in the salvage of any vessel except where the injuries are self inflicted or inflicted by other persons, or when injuries are to stowaways hiding outside areas normally available to passengers and crew; or
 - (b) the vessel sustains damage or structural failure that-
 - (i) adversely affects the structural strength, performance, or seaworthiness of the vessel; or
 - (ii) would normally require major repair or replacement of the affected component; or
 - (iii) poses a threat to the safety of people on board the vessel; or
 - (c) there is a complete or partial failure of machinery or equipment that affects the seaworthiness of the vessel; or
 - (d) there is a loss of, or damage to, or movement of, or

	<p>change in the state of, the cargo of the vessel which poses a risk to the vessel or other vessels; or</p> <p>(e) there is a significant loss of, or significant damage to, property (not being the cargo carried by the vessel) or the property of any person (whether or not on board the vessel),</p> <p>whether or not the loss or damage arises from an interaction between two vessels; or</p> <p>(f) there is a loss or escape of any substance or thing that-</p> <p>(i) may result or has resulted, in serious harm to any person; or</p> <p>(ii) may pose a risk, or has resulted in damage to the vessel or other vessels; or</p> <p>(iii) may pose a risk, or has resulted in any damage to any property (whether or not on board the vessel); or</p> <p>(g) a person is lost at sea (whether or not subsequently found) or is missing; or</p> <p>(h) the vessel is foundering, capsizing, being abandoned, stranding, missing, or has foundered, capsized, been abandoned, stranded, been in a collision, or has a major fire on board.</p>
Act	means the Maritime Transport Act 1994 and amendments.
aid to navigation	includes:-
	<p>(a) any lightship and any floating or other light exhibited for guidance for vessels;</p> <p>(b) any description of fog signal not carried on a vessel;</p> <p>(c) all marks and signs in aid of marine navigation;</p> <p>(d) any electronic, radio or other aid of marine navigation not carried on board any vessel.</p>
aircraft	has the same meaning as in the Civil Aviation Act 1990.
anchorage	in relation to vessels means the place (enclosed or otherwise) used for the anchorage of vessels to the bed of the waterway, whether the place is reserved for such purposes by the Council or not.

automatic location communicator	means a device that: <ul style="list-style-type: none">(a) transmits information or data concerning the position, heading and such other activities of the vessel as may be required; and(b) complies with the appropriate standards and requirements specified by the Council and notified to the owners and/or masters of vessels to which this Bylaw apply.
beacon	means a light or mark set up in prominent position as a navigation mark or a warning to vessels.
buoy	means a float secured to the seabed serving as a navigation or locational mark, or to indicate reefs, other hazard, or a mooring.
buoyancy aid	means: <ul style="list-style-type: none">(a) a buoyancy aid as defined in NZ Standard 5823:1989 or NZStandard 5823:2001, or any subsequent NZ Standard; or(b) a buoyancy aid that the Director is satisfied substantially complies with the standard described in subclause (a) above and that provides a minimum of 53 newtons of buoyancy.
coastal marine area	means the foreshore, seabed, and coastal water and airspace above the water of which- <ul style="list-style-type: none">(a) the seaward boundary is the outer limits of the territorial sea;(b) the landward boundary is the line of mean high water springs, except that where that line crosses a river, the landward boundary at that point shall be whichever is the lesser of-<ul style="list-style-type: none">(i) one kilometre upstream from the mouth of the river; or(ii) the point upstream that is calculated by multiplying the width of the river by 5.
commercial vessel	means a ship that is not— <ul style="list-style-type: none">(a) a pleasure craft; or(b) solely powered manually; or(c) solely powered by sail
Council	means the Marlborough District Council as constituted under Part 2 of the Local Government Amendment Act 1992 and the Local Government Act 2002.
craft	has the same meaning as ship or vessel.
crew	means the persons employed or engaged in any capacity on board a vessel, but does not include the master or pilot or a person temporarily employed on the vessel while it is in port.
dangerous goods	means: <ul style="list-style-type: none">(a) any substance in packaged form or in solid form in bulk, listed and classified according to its hazard in the International Maritime Dangerous Goods Code (IMDG Code); and(b) any harmful substance, being:

	(i) any substance in packaged form for the time being identified as a marine pollutant in the IMDG Code; and
	(ii) any substance that meets the criteria in the Appendix of Annex III of MARPOL; but does not include ship's stores and equipment;
	(c) empty receptacles that have been used for substances specified in paragraph (a) of this definition, unless the receptacles have been cleaned, subsequently dried and where appropriate, gas freed; but
	(d) does not include goods forming part of the equipment or stores of the vessel in which they are carried.
derelict	means a vessel that is abandoned at sea, or deserted or abandoned by an owner.
Director	means the person who is for the time being the Director Maritime New Zealand under section 439 of the Maritime Transport Act 1994.
emergency response craft	means any vessel approved by the Harbour Master for use in emergency response and includes Police, Customs, Harbour Master naval and port company vessels.
Enforcement Officer	means a person appointed by the Marlborough District Council under section 33G of the Act.
explosive	means any substance or mixture or combination of substances which in its normal state is capable either of decomposition at such rapid rate as to result in an explosion or of producing a pyrotechnic effect. Substances included within this definition can be more fully found in the Hazardous Substances and New Organisms Act 1996.
Flag A	means Flag A of the International Code of Signals (the diver's flag) being a swallow tailed flag, or a rigid equivalent, coloured in white and blue with white to the mast, of not less than 600mm by 600mm.
Flag B	means the Flag B of the International Code of Signals being a swallow tailed flag, or a rigid equivalent, coloured in red, of not less than 600mm by 600mm.
foreshore	means any land covered and uncovered by the flow and ebb of the tide at mean springs and, in relation to any such land that forms part of the bed of a river, does not include any area that is not part of the coastal marine area.
gross tonnage	means the volume of all the vessel's enclosed spaces (from keel to funnel) measured to the outside of the hull framing.
harbour limits	means the seaward boundary of the region's harbour in which the Council exercises jurisdiction in accordance with the provisions of the Act. A written description of harbour limits can be found in Schedule 1.1 of this Bylaw.
Harbour Master	is the person appointed by the Marlborough District Council as Harbour Master to exercise authority under this Bylaw and all relevant associated legislation; and includes any Deputy Harbour

Master.

Honorary Enforcement Officer	means a person appointed by the Marlborough District Council under section 33G of the Act.
hot work	means any activity or process that involves the use of open fires, or similar flame or spark-producing operations and work involving the application of heat by means of tools or equipment ie electric or gas welding, soldering, brazing, cutting, and grinding.
hours of darkness	means: <ul style="list-style-type: none">(a) any period of time between half an hour after sunset on one day and half an hour before sunrise on the next day; or(b) any other time when there is not sufficient daylight to render clearly visible a person, vessel or structure at a distance of 100 m.
impede the passage	means to cause a vessel, whether by action or inaction on the part of another vessel, to alter course, alter speed, or stop, or to prepare to do so when it would have otherwise not done so.
incident	means any occurrence, other than an accident, that is associated with the operation of a vessel and affects or could affect the safety of operation.
infringement fee	in relation to an infringement offence means the infringement fee prescribed for that offence by regulation made under section 33O of the Act.
infringement offence	means a breach of a navigation bylaw that is specified in regulations made under section 33O of the Act as an infringement offence for the purposes of this Bylaw.
in sight	in relation to vessels being in sight of one another means when one vessel can be visually observed from another.
kiteboarding (also known as kite surfing)	means using a controllable kite to pull the rider through the water on a small surfboard, a wakeboard, or a kiteboard.

length	in relation to a vessel means overall length. For the purpose of this Bylaw the length of any tug engaged in towing a barge or another vessel shall be the sum (total) length of both the tug and barge or vessel being towed but excludes the towline.
maritime facilities	includes moorings, wharves, docks, quays, marinas, areas or places where vessels are maintained, launching ramps, and other launching facilities.
Maritime Rules	means Maritime Rules made under section 36 of the Maritime Transport Act 1994.
master	means any person having command or charge of a vessel, but does not include a pilot who is piloting the vessel.
moor	means: (a) the securing of any vessel alongside a wharf or jetty by means of suitable mooring ropes; or (b) the securing of any vessel to a mooring or anchor.
mooring	means any weight or article placed in or on the bed of the waters of the region for the purpose of securing a vessel or floating structure; and- (a) includes any wire, rope, buoy or other device attached to the weight; but (b) does not include an anchor that is removed with the vessel or floating structure when it leaves an anchorage.
mooring area	means the area from time to time established by the Council as a mooring management area under the Resource Management Act 1991, where vessel moorings may be placed; but does not include an anchorage.
Motukina Reporting Line	means a line projected from Motukina Point Light to Te Uira Karapa (east) Light.
nautical chart	means a map of a sea area showing on it any coastlines, rocks and dangers to vessels etc. within the area covered and also showing the positions of navigation aids and other prominent features.
navigable waters	means any waters whether coastal or inland which are able to be navigated and includes harbours.
navigate	means the act or process of managing or directing the course of a vessel on, through, over, or under the water.
obstruction	means an object, equipment, structure, vessel or person positioned, whether in the water or not, so as to restrict or prevent navigation of a vessel or cause a hazard to people on a vessel.
oil	means petroleum in any form, including crude oil, fuel oil, sludge, oil refuse, and includes spirit produced from oil and mixed with

water and refined products (within the meaning of section 222 of the Maritime Transport Act 1994).

owner

- (a) in relation to a vessel registered in New Zealand under the Ship Registration Act 1992, means the registered owner of the vessel; or
- (b) in relation to a vessel registered in any place outside New Zealand, means the registered owner of the vessel; or
- (c) in relation to a fishing vessel, other than one to which paragraph (a) or (b) of this definition applies, has the same meaning as owner as defined in the Fisheries Act 1996; or
- (d) in relation to a vessel to which paragraphs (a), (b), or (c) of this definition applies, where, by virtue of any charter of demise charter or for any other reason, the registered owner is not responsible for the management of the vessel, includes the charterer or other person who is for the time being so responsible; or
- (e) in relation to an unregistered vessel or registered vessel that does not have a registered owner, means the person who is for the time being responsible for the management of the vessel; and
- (f) in relation to any maritime facility includes the licence or consent holder.

person in charge

in relation to any vessel, means the master.

personal flotation device (PFD)

means any buoyancy aid that is designed to be worn on the body that meets:

- (a) a standard in NZ Standard 5823:2001 applicable to such buoyancy aids; or
- (b) a national or international standard that the Director is satisfied substantially complies with a standard in NZ Standard 5823:2001 applicable to such buoyancy aids.

Picton Harbour	means those waters which lie inside a line drawn between the geographic points known as Wedge Point and The Snout.
pilot	in relation to any vessel means any person not being the master or member of the crew of the vessel who has the conduct of the vessel.
pilotage limits	<p>(a) Queen Charlotte Sound Pilotage District: means all those waters contained within Queen Charlotte Sound having as its seaward boundary a line drawn from Cape Koamaru to Kempe Point and north of a line drawn from Dieffenbach Point in a direction of 090° to the shore of Arapawa Island at the western end of Tory Channel.</p> <p>(b) Tory Channel Pilotage District: All that area of water within Tory Channel bound at the seaward limit by an arc, radius 3.5 nautical miles, centred on West Head light (41° 12'.8 south, 174° 18'.9 east) and south of a line drawn from Dieffenbach Point in a direction of 090° to the shore of Arapawa Island at the western end of Tory Channel.</p> <p>(c) Pelorus Sound, Admiralty Bay and French Pass Pilotage District: means all those waters contained within Pelorus Sound having as their seaward boundary in the north as a straight line drawn in a direction of 353° (T) from high water mark at Alligator Head (40° 58'.1 south 174° 09'.3 east) to high water mark at Sentinel Rock (40° 53'.9 south 174° 08'.6 east) thence in a direction of 277° (T) to high water mark at Bonne Point, D'Urville Island (40° 51'.6 south 173° 54'.8 east) and in the south a straight line drawn in a direction of 005° (T) from high water mark at Okuri Point (40° 58'.4 south 173° 46'.0 east) to high water mark at Sauvage Point, D'Urville Island (40° 56'.5 south 173° 46'.2 east).</p>
pleasure craft	<p>(a) means a vessel that is not offered or used for hire or reward, and is used exclusively for—</p> <p style="padding-left: 20px;">(i) the owner's pleasure or as the owner's residence; or</p> <p style="padding-left: 20px;">(ii) recreational purposes by—</p> <p style="padding-left: 40px;">(A) the members of a club that owns the ship;</p> <p style="padding-left: 40px;">(B) the beneficiaries of a trust that owns the ship;</p> <p style="padding-left: 40px;">(C) the members of an incorporated society that owns the ship; but</p> <p>(b) excludes a ship that is—</p> <p style="padding-left: 20px;">(i) provided for transport, sport, or recreation by, or on behalf of, an institution, hotel, motel, place of entertainment, or other establishment or business;</p> <p style="padding-left: 20px;">(ii) used on a voyage for pleasure if the ship is normally used, or intended to be normally used, as a fishing ship or for the carriage of passengers or cargo for hire or reward;</p> <p style="padding-left: 20px;">(iii) operated or provided by—</p> <p style="padding-left: 40px;">(A) a club, incorporated society, or trust for non-recreational purposes; or</p>
(B) a business	

Port	(a) means an area of land and water intended or designed to be used either wholly or partly for the berthing, departure, movement, and servicing of Ships or vessels; and (b) includes any place in or at which ships can or do— (i) load or unload goods; (ii) embark or disembark passengers; and (a) also includes a harbour.
power driven vessel	means any vessel propelled by machinery.
proper speed	means speed through the water.
public notice	as defined in the Local Government Act 2002, meaning one that— (a) is made publicly available, until any opportunity for review or appeal in relation to the matter notified has lapsed, on the local authority’s Internet site; and (b) is published in at least— (i) 1 daily newspaper circulating in the region or district of the local authority; or (ii) 1 or more other newspapers that have a combined circulation in that region or district at least equivalent to that of a daily newspaper circulating in that region or district
Queen Charlotte Sound	means those waters which lie inside a line drawn between: (a) the geographic points known as Cape Jackson and Cape Koamaru; and (b) north of a line drawn from Dieffenbach Point in a direction of 090° to the shore of Arapawa Island at the western end of Tory Channel.
recreational craft	means a vessel that is: (a) a pleasure craft; or (b) solely powered manually; or (c) solely powered by sail.
region	means the Marlborough Region as constituted under section 110 of the Local Government Amendment Act 1992.
reserved area	means any area defined as such under this Bylaw in Part 3.9 and further defined by words and maps, if any, in Schedule 4 of this Bylaw.
reward	means the payment to or for the benefit of the owner or master of a vessel, of a contribution towards the expenses of a voyage by or on behalf of persons; but does not include payment of any contribution by part owners of the vessel or by persons engaged as bona fide crew members.
sailboard	means any type of board that is propelled by a detachable sail apparatus and operated by a person(s) standing on the board.
schedule	means and refers to any schedule contained in or annexed to this Bylaw and/or refer to any amendment or amendments to any such schedule.

seaplane	means a flying boat or any other aircraft designed to manoeuvre on the water and, under Maritime Rule Part 22, is deemed to be a vessel when operating on the water.
seaworthy	in relation to any vessel means being in all respects in a fit condition or readiness to undertake a sea voyage.
ship	means every description of boat or craft used in navigation whether or not it has any means of propulsion; and includes- (a) a barge, lighter, or other like vessel; or (b) a hovercraft or other thing deriving full or partial support in the atmosphere from the reaction of air against the surface of the water over which it operates; or (c) a submarine or other submersible.
shore	means any place to landward of the water's edge, and distance from the shore means distance from the water's edge.
structure	means: (a) any building, equipment, device or other facility made by people and which is fixed to land or seabed; and (b) includes slipways, jetties, pile moorings, swing moorings, wharves, marine farms, and other objects, whether or not these are above or below the waterline of the foreshore; but (c) does not include aids to navigation.
sunrise	means the time of sunrise as stated in the New Zealand Nautical Almanac (NZ 204).
sunset	means the time of sunset as stated in the New Zealand Nautical Almanac (NZ 204).
support vessel	means any vessel used for coaching, marshalling, and rescue attendance for training, regattas and competitions.
surfboard	means any type of board that is designed for surfing.
Tory Channel	means those waters that lie (See schedule 7 for reference): (a) south of a line drawn from the geographic point known as Dieffenbach Point in a direction of 090° True to the shore of Arapawa Island; and (b) all that area of water within Tory Channel bound at the seaward limit by an arc, radius 3.5 nautical miles, centred on West Head Light (41° 12'.8 south, 174° 18'.9 east),

Tory Channel Controlled

Navigation Zone

means the area contained between the following geographic positions:

Western Boundary:

A line drawn in a direction of 320° (True) from Scraggy Point Light (K4266) to the opposite shore on Arapawa Island.

Eastern Boundary:

The seaward arc of a circle radius 0.6 nautical mile, centred on position 41° 12'.71 south 174° 19'.12 east [*the point forming the intersection of a line drawn between East and West Head lights and the line of the Leading Lights*].

Tory Channel Reporting Arc

means the seaward arc of 3.8 nautical miles radius centred on position 41° 12'.71 south 174° 19'.12 east. [*This position is an intersection of the line drawn between East and West Head lights and the line of the Leading Lights*].

underway

means a vessel is not at anchor, or made fast to the shore, or aground.

vessel

has the same meaning as ship.

Water skiing

means being towed barefoot or on an object of any kind other than a vessel.

windsurfing

means using a board with a sail or sails designed to be operated by a person standing upright on the board.

2 – General Matters

2.1. Personal Flotation Devices

1. No person in charge of a recreational craft shall use it unless there are on board at the time of use, and in a readily accessible location, sufficient personal flotation devices of an appropriate size for each person on board.
2. Clauses 2.1.1 and 2.1.6 shall not apply to-
 - (a) any surfboard or similar unpowered craft;
 - (b) any sailboarder, kiteboarder, or windsurfer, if a wetsuit is worn at all times;
 - (c) a diver on a boat of 6 metres or less in length overall that is used for recreational diving within 5 nautical miles of the shore, if a full body dive suit is worn at all times;
 - (d) any sporting event, training activity, or ceremonial event if a support vessel that is capable of providing adequate assistance in the event of an emergency remains in the immediate vicinity of the recreational craft, and the recreational craft or support vessel, or both, carry personal flotation devices or buoyancy aids of an appropriate size for each person on board the recreational craft;
 - (e) a person training for or participating in a sporting event, if the training or the event is supervised in accordance with the safety system of the sporting organisation approved by the Harbour Master under this Bylaw, or the Director under Maritime Rule Part 91.4(3); and
 - (f) a member of a visiting foreign watersports team, if the person carries or wears a personal flotation device that is approved by the competent authority for use in that person's country of residence.
3. The Harbour Master may approve a sporting organisation for the purposes of clause 2.1.2(e) if that organisation has in place a safety system that the Harbour Master is satisfied provides an equivalent level of safety to the carriage or wearing of personal flotation devices (see Schedule 3 for the appropriate form).
4. Despite clause 2.1.2(d), no person in charge of a recreational craft may use that craft in circumstances where tides, river flows, visibility, rough seas, adverse weather, emergency or other situations cause danger or a risk to the safety of persons on board, unless every person on board is wearing properly secured personal flotation device of an appropriate size for that person.
5. Clauses 2.1.1 and 2.1.4 shall not apply in respect of any sporting event, training activity, ceremonial event, or other organised recreational activity if the Harbour Master has granted an exemption in writing (see Schedule 3 for the appropriate form). The Harbour Master may grant an exemption for a specified period if he/she is satisfied that adequate safety precautions are made for any person participating in the event or activity.
6. No person in charge of a vessel shall use it to tow any person, and no person shall cause himself or herself to be towed by any vessel, unless the person being towed wears a properly secured personal flotation device of an appropriate size for that person.
7. Clause 2.1.5 shall not apply to that person when-

- (a) training for any trick water skiing element of a sporting event administered by a national sporting organisation approved under clause 2.1.3, or Maritime Rule Part 91.4(4); or
- (b) participating in a sporting event that is administered by a national sporting organisation approved under clause 2.1.3 or Maritime Rule Part 91.4(3).

2.2. Swimming and diving around wharves

1. No person shall dive, jump, swim or undertake other related activities, from:
 - (a) the commercial jetties, wharves, or quays shown in Schedule 6; or
 - (b) within 50 metres of the structures listed in 2.2.1(a); or
 - (c) within any designated anchorage or mooring area; or
 - (d) within any navigation channel; or
 - (e) any such areas in the navigable waters of the region as the Harbour Master may from time to time determine, unless the person does so in accordance with the prior written consent of the Harbour Master.
2. The Harbour Master may issue an exemption to clause 2.2.1, subject to such conditions as the Harbour Master considers appropriate, in the interests of navigation.

2.3. Use of vessel engine around wharves, ramps

1. No person shall operate the propulsion system of a vessel while it is lying at any wharf, or while it is loading to or from a boat trailer at any launching ramp, in such a way that it may damage any property, scour the bed of the waters, or injure any person. This clause does not preclude the use of the propulsion system for the safe berthing or unberthing of any vessel at a wharf.
2. In addition to the requirements of clause 2.3.1, a master of a commercial vessel shall ensure that a crew member shall:
 - (a) be stationed forward and aft on any vessel while that vessel is lying at any wharf and about to test, or testing the main engine system; and
 - (b) warn all persons or vessels in the immediate vicinity of that vessel that the engines are being tested; and
 - (c) notify and seek permission from the Harbour Master prior to the engines being tested.

2.4. Vessels which are not seaworthy

1. The master of every vessel anchored or moored in any waters in the region must keep the vessel in a seaworthy condition at all times, unless the Harbour Master or Enforcement Officer has given prior written approval for it to be anchored or moored in a condition which is not seaworthy and subject to such conditions that the Harbour Master or Enforcement Officer may determine appropriate to ensure navigation safety.
2. If any vessel is a navigation hazard by reason of it being derelict or not being seaworthy:

- (a) the Harbour Master or Enforcement Officer may give a direction to the owner of that vessel to move the vessel to an alternative location or remove it from the waters of the region within a reasonable time specified in the direction. Such direction may be given by any means of communication and subsequently supported by a written direction; and
 - (b) where the owner of a vessel fails to move that vessel in accordance with such direction given by the Harbour Master or Enforcement Officer, the Harbour Master or Enforcement Officer may move that vessel to a position where it is no longer a hazard or remove it from the water. Costs incurred will be recovered from the owner of the vessel as a debt due to Council. The owner and master are jointly and severally responsible for ensuring the direction is complied with.
3. No person may operate any vessel that is not seaworthy except to comply with the directions under this Bylaw of the Harbour Master or an Enforcement Officer to move that vessel to an alternative location. However, in the event of an emergency or an accident at sea, the person in charge of the vessel shall proceed to a safe area immediately.

2.5. Seaplanes

1. No person navigating a vessel may impede a seaplane in the process of landing or taking off.
2. No person shall take off, land, or attempt to take off or land any seaplane or other aircraft, except in an emergency, in any area, other than the areas reserved for that purpose, without the prior written permission of the Harbour Master. Written application must be received by the Harbour Master not less than 48 hours before the proposed landing or taking off.

2.6. Vessels to be adequately moored or secured

1. The master of every vessel must ensure that his or her vessel is adequately moored while secured to any maritime facility.
2. No person may cut, break, destroy or unlawfully detach;
 - (a) the mooring of any vessel; or
 - (b) the fastening or securing of any vessel lying in a dock or at any maritime facility.
3. The owner or master of a vessel berthed at a wharf, or at anchor, must ensure that it is securely fastened at all times and, if required by the Harbour Master, maintain a person on board to keep a watch.
4. When a vessel is moored at a maritime facility the owner or master must ensure that adequate and safe means of access to and from the vessel is provided, properly installed, secured, and adjusted to suit any tidal conditions.
5. When such means of access is provided, no person shall embark or disembark except by using such access.

2.7. Prohibited and restricted anchorages

1. Except in emergencies, no person shall anchor or moor any vessel within any prohibited anchorage area.

2. No person may anchor any vessel so as to:
 - (a) obstruct the passage of other vessels or to obstruct the approach to any wharf, pier, jetty or maritime facility which has been lawfully established; or
 - (b) create a hazard to other vessels at anchor; or
 - (c) create a safety hazard for other recreational craft, swimmers or water users.
3. No person may anchor or moor any vessel, except to a mooring for which a license or resource consent has been issued, within the prohibited anchorage areas as defined below:
 - (a) Picton Harbour all that area of water south of a line drawn from Wedge Point to The Snout, except in the defined anchorage area as outlined on Chart NZ 6153.
4. Where the Harbour Master, or any person authorised in writing by the Harbour Master to give orders under this Bylaw, believes on reasonable grounds that a vessel is anchored in a prohibited area, he may order the master of that vessel to remove the vessel from the area. Such order may be given by any means of communication.
5. Where the Harbour Master becomes aware that any vessel has broken adrift or is likely to break adrift from a maritime facility or anchor and is endangering or likely to endanger navigation, he or she shall, as soon as is practicable, and having regard to all the circumstances, cause that vessel to be safely secured. The Harbour Master is entitled to recover from the master or owner of that vessel any expenses incurred under this Bylaw.
6. No liability shall attach itself to the Harbour Master or the Council by reason of any accident which may occur to any vessel in carrying out the provisions of this Bylaw.

2.8. Obstructions

1. No person may obstruct the navigation of any waterway or the access to any wharf, landing place, boat ramp, slipway, navigation channel, or mooring without the prior written permission of the Harbour Master.
2. No person shall place any obstruction, including any vessel, fishing apparatus, in the waterway, that is liable to:
 - (a) restrict navigation; or
 - (b) cause or have the potential to cause, injury or death to any person; or
 - (c) cause damage to any vessel or any property.
3. No person shall leave equipment, stabilisers, booms, cranes, davits or other equipment extending over the side of a vessel so as to cause a hazard to any other vessel.
4. In the interest of navigation safety the Harbour Master may, on reasonable grounds, declare specified areas of a harbour closed to fishing. Such closure will be effective on the day after public notice of the closure is given.

2.9. Notification of collisions and accidents

1. The master of any vessel that:

- (a) has been involved in a collision with any vessel or property, or has been sunk or grounded or become stranded; or
- (b) by any reason of accident, fire, defect or otherwise is in such a condition as to affect its safe navigation or give rise to danger to other vessels or property; or
- (c) in any manner gives rise to an obstruction; or
- (d) causes damage to any aid to navigation or structure or to anything on the structure;

must, as well as complying with any accident reporting requirements of the Maritime Transport Act 1994, as soon as is practicable report the occurrence to the Harbour Master and, within 48 hours, provide the Harbour Master with full written details of the occurrence.

2. The report required under clause 2.9.1 must include:
 - (a) a full description of any injury to any persons and their names and addresses; and
 - (b) a full description of any damage to vessels or structures; and
 - (c) the name(s), address(es) of person(s) in charge of the vessel at the time of the collision or accident.
3. If an incident described in clause 2.9.1 involves damage to a vessel that affects or is likely to affect her seaworthiness, the master may not move the vessel except:
 - (a) to clear the main navigational channel or to moor or anchor in safety; or
 - (b) in accordance with the directions of the Harbour Master.

2.10. Aids to navigation

1. No person may tie a vessel to any aid to navigation without the prior written permission of:
 - (a) the Harbour Master if the aid to navigation is operated by a local authority or port company; or
 - (b) the Director if the aid to navigation is operated by Maritime New Zealand.
2. No person may damage, remove, deface or otherwise interfere with any aid to navigation erected by, or duly authorised by, the Harbour Master as an aid to navigation or warning.
3. No person may erect, maintain or display any beacon, light, mark, buoy or other device which may be used or mistaken as a recognised aid to navigation without the written permission of the Harbour Master and the Director of Maritime Safety.

2.11. Sound and light signals

1. No person shall fit or use any flashing lights, sirens or other sound or light signals not prescribed in Maritime Rules for that vessel, without the written permission of the Harbour Master.

2. No person shall use blue flashing lights and/or sirens other than Police, Customs, Harbour Master or other enforcement vessels authorised by the HarbourMaster.
3. A purple flashing light, for use on an emergency response craft for the purpose of identifying itself to a vessel or aircraft involved in a response, shall be authorised in writing by the Harbour Master.
4. Any vessel authorised to use purple flashing lights by the Harbour Master shall only display them when:
 - (a) the use is required to assist the location of a vessel or person in need of assistance; or
 - (b) the use is required to assist in the identification of the vessel to an aircraft involved in an incident.
5. The lights may not be used when the vessel is underway at a speed in excess of 12 knots, and neither imply nor grant status or privilege to that vessel. Any use of the purple lights should be for a short period of time. A vessel authorised by this clause must observe clause 3.2 (speed) at all times.
6. No person may blow or sound, or cause to be blown or sounded, the whistle, siren or horn of a vessel, within any harbour area, except as a navigation safety signal. However, nothing in this Bylaw precludes the testing of such a whistle, siren, or horn before the vessel leaves the wharf, or for maintenance purposes.

2.12. Timber and logs

1. No person, except with the written permission of the Harbour Master, may tow, moor, place or leave any log in any tidal water within the region.
2. The master of every vessel engaged in loading, discharging or carrying of logs shall ensure that any log or logs which are lost overboard during the loading, discharging or carrying of logs are retrieved as soon as possible so that such log or logs do not become a hazard to navigation.
3. Where any logs lost overboard are unable to be retrieved, the master, in observing clause 2.12.2 above, will, prior to departure, cause a report to be delivered to the Harbour Master detailing the logs lost over board and the action taken to retrieve them.
4. Where the master of any vessel fails to observe the requirements of 2.12.2 the Harbour Master may cause such log or logs to be retrieved. Any costs involved in such operation shall be recoverable from the owner of that vessel as a debt to Council.

2.13. Discharge of Firearms

1. No person may discharge a firearm on board any vessel except as provided for in Maritime Rule Part 23 – Operating Procedures and Training, Appendix 3, Distress Signals, without prior written permission from the HarbourMaster.

3 – Operating Requirements – all vessels

3.1. Minimum age for operating powered vessels

1. No person under the age of 15 years shall be in charge of, or propel or navigate, a power driven vessel that is capable of a proper speed exceeding 10 knots unless he or she is under the direct supervision of a person over 15 years who is within immediate reach of the controls, and is not the lookout person as provided for in clause 3.4.
2. The owner of a power driven vessel that is capable of a proper speed exceeding 10 knots must not allow any person who is under the age of 15 years to be in charge of or navigate that vessel, unless he or she is under the direct supervision of a person over the age of 15 years who is within immediate reach of the controls.
3. Clauses 3.1.1 and 3.1.2 do not apply in respect of any person who has a written exemption from the Harbour Master issued in accordance with this Bylaw, or by the Director under Maritime Rule Part 91.4.
4. The Harbour Master may issue an exemption in accordance with this part of the Bylaws that is valid for any specified place or places to a person under the age of 15 years for transport, training, competitions, or other sporting events, if the Harbour Master considers that the person:
 - (a) is competent to propel or navigate a power driven vessel at a proper speed exceeding 10 knots; and
 - (b) is aware of the relevant navigation safety rules and navigation bylaws; and
 - (c) will be under adequate supervision during the proposed activity or activities.

3.2. Speed of vessels

1. No person shall, without reasonable excuse, propel or navigate a vessel (including a vessel towing a person or an object) at a proper speed exceeding five (5) knots within:
 - (a) 50 metres of any other vessel, raft or person in the water; or
 - (b) either 200 metres from the shore or any structure, or on the inshore side of any row of buoys demarcating that distance from the shore or structure; or
 - (c) 200 metres of any vessel or raft that is flying Flag A of the International Code of Signals (diver's flag).
2. No person shall propel or navigate a powered vessel at a proper speed exceeding 5 knots while any person has any portion of his or her body extending over the fore part, bow or side of that vessel.
3. No person shall cause himself or herself to be towed by a vessel (whether or not on a waterski, aquaplane, or similar other object) at a proper speed exceeding five (5) knots in any circumstances specified in clause 3.2.1 of this Bylaw.
4. No person in charge of a vessel shall permit the vessel to continue onwards, after any person being towed by that vessel has dropped (whether accidentally, or otherwise) any waterski or similar object which may cause danger to any other person or vessel, without first taking appropriate action to immediately recover that waterski or similar

object, unless the person has taken measures adequate to ensure the dropped ski or similar object is clearly visible to other water users.

5. Clause 3.2.1 (a) shall not apply to:
 - (a) a vessel over 500 gross tonnage, if the vessel cannot be safely operated in compliance with this clause; or
 - (b) a vessel powered by sail in relation to any other vessel powered by sail, while the vessels are participating in a yacht race or training administered by:
 - (i) a club affiliated to Yachting New Zealand; or
 - (ii) a non-profit organisation involved in sail training or racing; or
 - (c) a craft training for or participating in competitive rowing or paddling; or
 - (d) a tug, pilot vessel, Harbour Master vessel, emergency response craft, or police vessel, if the vessel's duties cannot be performed in compliance with this clause; or
 - (e) a vessel operating in accordance with a speed uplifting established under:
 - (i) Schedule 4 (Location Specific Information); or
 - (ii) clause 3.5, 3.8 or 3.9 of this Bylaw.
6. Clause 3.2.1(b) shall not apply to:
 - (a) a vessel operating in an access lane or a reserved area for the purpose for which the access lane or reserved area was declared; or
 - (b) a vessel operating under a speed uplifting established under:
 - (i) Schedule 4 (Location Specific Information) of this Bylaw; or
 - (ii) clause 3.5, 3.8, or 3.9 of this Bylaw; or
 - (c) a vessel over 500 gross tonnage, if the vessel cannot be safely navigated in compliance with this clause; or
 - (d) a craft training for or participating in competitive rowing or paddling; or
 - (e) a tug, pilot vessel, Harbour Master vessel, emergency response craft, or police vessel when the vessel's duties cannot be performed in compliance with this clause.
7. Any person navigating or in control of any vessel shall navigate such vessel with all due care and caution and at a speed and manner as not to endanger lives of, or cause injuries to any person(s).

3.3. Vessels to be Identified

1. The master and owner of a vessel not subject to Maritime Rules shall ensure that his or her vessel is marked with its name or similar identifying marks. This shall be displayed on each side of the vessel and be clearly visible to a person 50 metres away.

2. This requirement does not apply to such vessels which are solely powered by oars or paddles. However such vessels must be marked somewhere with the name and address of the owner or operator.

3.4. Lookouts on vessels used for water skiing and towing

1. No person in charge of a vessel shall use it to tow any person at a proper speed exceeding five (5) knots unless at least one other person is on board who is:
 - (a) 10 years of age or older; and
 - (b) responsible for immediately notifying the person in charge of any mishap that occurs to the person who is being towed.
2. No person shall cause himself or herself to be towed by a vessel a proper speed exceeding five (5) knots unless at least one other person is on board who is:
 - (a) 10 years of age or older; and
 - (b) responsible for immediately notifying the person in charge of any mishap that occurs to the person who is being towed.

3.5. Water skiing or towing between sunset and sunrise

1. No person shall operate, between sunset and sunrise, a vessel that is towing any person on water skis, an aquaplane, surfboard, or other similar object, or who is barefoot skiing, or who is on a paraglider or similar object.
2. No person may cause himself or herself to be towed in the circumstances described in Clause 3.4.1.

3.6. Access lanes

1. The Council recognises the access lanes established and that are noted in schedule 4 of this bylaw. The Council may, from time to time, by public notice, declare that a specific area of the harbour shall be an access lane for the purpose of high-speed access to and from the shore.

3.7. Conduct in access lanes

1. No person shall propel or navigate or manoeuvre a vessel in an access lane for the purpose for which it is declared except by the most direct route through the access lane and on that side of the access lane that lies to the starboard (right) side of the vessel.
2. The requirement to use the starboard (right) side of the access lane as described in 3.6.1 shall not apply to the access lane established on the eastern side of Kumutoto Bay where, due to the nature of the bay, the port (left) side of the access lane shall be used instead.
3. No person shall:
 - (a) while being towed by a vessel in an access lane, cause himself or herself or any water ski, aquaplane, or other similar object, on or by which he or she is being towed, to travel other than by the most direct route through the access lane and on that side of the access lane that lies to the starboard (right) side of the vessel; or

- (b) cause any object that is being towed by a vessel in an access lane to travel other than by the most direct route through the access lane and on that side of the access lane that lies to the starboard (right) side of the vessel.
- 4. The requirement set out in 3.7.3 (a) and (b) shall not apply to the access lane in Kumutoto Bay east, where, instead, the provisions of 3.7.2 shall apply.
- 5. No person within an access lane shall proceed in a manner that is dangerous in relation to any vessel or other person in the access lane.
- 6. No person shall obstruct any other person while that other person is using an access lane for the purpose for which it has been declared.
- 7. If one or more persons are using an access lane for the purpose for which it was declared, no person may enter, remain, or use the lane for any other purpose.
- 8. The access lanes to which this part of the bylaws applies are those described in Schedule 4 (Location Specific Information).

3.8. Marking of access lanes

- 1. Every access must be demarcated by:
 - (a) two orange post with horizontal black bands in line on shore on each side of the access lane; and
 - (b) if the access lane is marked at its outer edge, it shall be marked by orange buoys with black bands; and
 - (c) adequate signage in the vicinity of the access lane that declares the purpose of that lane.

3.9. Reserved areas

- 1. The Council, on application (see Schedule 3 for the appropriate form), or of its own mind, may from time to time, by Public Notice, and in the interests of navigation safety, reserve any specified area for a specific purpose.
- 2. A reservation under this Clause of the Bylaws may be made on such conditions and for such period or periods of time, as the Council may specify in the Notice.
- 3. Every area reserved under this Clause of the Bylaws shall be indicated by notice boards that are prominently displayed on the land at the extremities of the area.

3.10. Reserved areas for special events

- 1. Any person intending to conduct a special event such as race, speed trial, competition, or other organised water activity in any area to which this Bylaw applies and where it is desirable to have exclusive use of that area to run the event, must apply to the Harbour Master to:
 - (a) temporarily suspend the application of Clause 3.2 in part or in total in that area for the purposes for facilitating the event; and
 - (b) temporarily reserve the area for the purpose of that activity.

2. Where the Harbour Master is satisfied that the application may be granted without endangering the public, the Harbour Master may grant the application accordingly, for a period not exceeding 10 days and on such conditions as the Harbour Master may specify.
3. No grant of application shall have effect unless, not less than 7 days nor more than 14 days before the commencement of the activity, a public notice is given specifying the period of the activity and the details of the suspension or reserved area.
4. The Council may recover, from the applicant, all actual and reasonable costs associated with the application, including any monitoring and advertising.

3.11. Conduct in reserved areas

1. No person may obstruct any other person while that other person is using a reserved area for the purpose for which it is reserved.
2. If any person is using a reserved area for the purpose for which it is reserved, no other persons shall enter or remain in or use the area for any other purpose, unless otherwise stated in Schedule 4 (Location Specific Information)
3. Nothing in Clauses 3.10.1 and 3.10.2 prohibits the use of emergency response craft within a reserved area.
4. The reserved areas to which these clauses of the Bylaws apply are those prescribed in Schedule 4 (Location Specific Information), or those notified in accordance with Clauses 3.9.1 or 3.9.3.

3.12. Marking of reserved areas

1. Adequate signs shall be provided in the vicinity of a reserved area that:
 - (a) define the area; and
 - (b) declare the purpose for which the area has been reserved.
2. If the area is demarcated on shore, it is marked by black posts with white horizontal bands.
3. If the reserved area is marked at sea, it is marked by black buoys with white bands.
4. Nothing in this Clause applies to a reserved area for special events granted in accordance with Clause 3.10.

3.13. Collision prevention

1. No person shall operate any vessel in breach of Maritime Rule Part 22 (Collision Prevention) made under the Maritime Transport Act 1994.
2. Every vessel shall display navigation lights appropriate for its length and occupation as set out in Maritime Rule Part 22 (Collision Prevention) between the hours of sunset and sunrise and at times of restricted visibility.
3. The Harbour Master, Enforcement Officer, or Honorary Enforcement Officer may direct any vessel to take any action they deem necessary for compliance with Maritime Rule Part 22 (collision Prevention), made under the Maritime Transport Act 1994.

4. Every person commits an offence against this Bylaw who, being required by the Harbour Master, Enforcement Officer, or Honorary Enforcement Officer under clause 3.13.1 of this Bylaw to do anything, fails to comply with that requirement as soon as is reasonably possible.
5. Any commercial and/or passenger carrying high speed vessel either operating under the Code of Safety for Dynamically Supported Craft and/or the High-speed Craft or any similar code or a vessel which is capable of operating at a speed of greater than 25 knots, shall when navigating within harbour limits at a speed greater than 25 knots display, where it can best be seen, an all round YELLOW flashing light, visible for at least six (6) nautical miles, between the hours of sunset and sunrise and at times of reduced visibility.
6. For the purpose of this Bylaw, the term ‘flashing light’ shall have the same meaning as defined in Maritime Rule Part 22 – Collision Prevention.

3.14. Duty of master of a vessel under 500 gross tonnage

1. The master of a vessel under 500 gross tonnage must not allow his or her vessel to impede the navigation of any vessel of 500 gross tonnage or more if the vessels are operating in the designated Pilotage areas as defined by this Bylaw in Schedule 1.2, or in the inner harbour of Picton and Shakespeare Bay.

3.15. Moving prohibited zone

1. A moving prohibited zone extending to 500 metres ahead and 50 metres on each side and continued at such width to 50 metres astern of a vessel of 500 gross tonnage or greater, when that vessel is within the pilotage area as defined by this Bylaw in Schedule 1.2.
2. The person in charge of any vessel less than 500 gross tonnage shall not navigate his or her vessel within the moving prohibited zone of any vessel navigating within the pilotage area as defined by this Bylaw in Schedule 1.2.
3. The provision of clause 3.15.2 shall not apply:
 - (a) to vessels having prior written authority from the Harbour Master; or
 - (b) within the inner harbour of Picton and Shakespeare Bay, where, due to the nature of these area compliance may be impossible. In such cases, the requirements of clause 3.13 and clause 3.14 shall apply; or
 - (c) to pilot vessels and tugs in the course of carrying out their duties, and such other class of vessels, as the Harbour Master may exempt in writing.

3.16. Dive Operations

1. The master of every vessel from which dive operations are in progress must ensure that Flag A is displayed in such a manner that it can be clearly identified by the watch keeper or lookout from another vessel at a distance in excess of 200 metres.
2. Every person diving from a vessel must ensure that Flag A is displayed in such a manner that it can be clearly identified by crew members of another vessel at a distance in excess of 200 metres.
3. Dimensions for Flag A shall not be less than 600mm by 600mm.

4 – Operating Requirements – commercial vessels, masters and pilots

4.1. Directions for Transiting Queen Charlotte Sound

1. In addition to the radio calling requirements as set out in clause 4.2 ‘Tory Channel Entrance’ below, the following shall apply:
 - (a) The master of every commercial vessel shall, prior to entering Queen Charlotte Sound limits, call ‘Picton Harbour Radio’ on marine VHF Channel 18 and report the intention of the vessel to enter harbour limits as described in Schedule 1.1. Such vessels shall maintain a listening watch on marine VHF Channel 18 whilst within harbour limits.
 - (b) The master of every commercial vessel, when making the call to Picton Harbour Radio as required by Clause 4.1.1 (a) above, will advise Picton Harbour Radio whether the vessel is carrying dangerous goods.
 - (c) For the purposes of this Bylaw, that part of Queen Charlotte Sound forming Tory Channel, from Dieffenbach Point to East Head, shall be deemed to be a narrow channel in accordance with Maritime Rule Part 22.9 – Collision Prevention, Narrow Channels - and the provisions of that rule shall apply.

4.2. Tory Channel Entrance

1. The pilot or master (if pilot exempt) of every vessel shall broadcast, or cause to have broadcast, on Channel 18 VHF, an initial radio message addressed to ‘All Ships’, giving warning of transit of the eastern entrance to Tory Channel and provide an ETA at the Tory Channel Controlled Navigation Zone as set out below:
 - (a) For inward bound vessels at the Tory Channel Reporting Arc.
 - (b) For outward bound vessels at the Motukina Reporting Line.
 - (c) The above broadcasts may be repeated, if practicable, on marine VHF Channels 16 and 63
 - (d) Any significant changes in Estimated Time of Arrival (ETA) must be promulgated to all vessels
2. All vessels, entering or leaving the eastern entrance to Tory Channel, whether in sight of one another or not, are required to establish radio contact with any other vessel which is likely to be approaching the eastern entrance to Tory Channel at approximately the same time.
3. Where two vessels of 350 gross tonnage or more or a tug and tow exceeding 40 metres in length are likely to pass each other in the vicinity of the eastern entrance to Tory Channel, the outward bound vessel shall have priority and the inward bound vessel shall wait clear of the entrance until the outward bound vessel is clear.
4. The requirements of clause 4.2.3 shall not apply where the pilot or master (if pilot exempt) of the outward bound vessel has advised the pilot or master (if pilot exempt) of the inward bound vessel to proceed inwards.

5. Only one vessel is permitted to navigate within the Tory Channel Entrance Controlled Navigation Zone, as is shown in Schedule 8, at any one time.
6. The pilot or master (if pilot exempt) of every vessel of 350 gross tonnage or more or a tug and tow exceeding 40 metres in length when inward bound through the eastern entrance to Tory Channel, must ensure that his or her vessel is on the line of the leading lights when 0.5 nautical mile south-east of a line joining East Head light (K4265) and West Head light (K4262) [Approx. position 41° 13'.05 south 174° 19'.62 east].
7. The pilot or master (if pilot exempt) of every vessel of 350 gross tonnage or more or a tug and tow exceeding 40 metres in length, when outward bound through the eastern entrance to Tory Channel must ensure that he or she maintains his or her vessel on the line of the leading lights until 0.5 nautical miles south-east of a line joining East Head light (K4265) and West Head light (K4262) [Approx. position 41° 13'.05 south 174° 19'.62 east].
8. The pilot or master (if pilot exempt) of every vessel of 350 gross tonnage or more or tug and tow exceeding 40 metres in length when inward bound through the eastern entrance to Tory Channel is prohibited from overtaking another vessel of 350 gross tonnage or more or tug and tow exceeding 40 metres in length in the approaches to the eastern entrance of Tory Channel if it is apparent that the overtaking manoeuvre cannot be completed in sufficient time for the overtaking vessel to be on the line of the leading lights as set out in 4.2.6.
9. The pilot or master (if pilot exempt) of every vessel of 350 gross tonnage or more or tug and tow exceeding 40 metres in length whether inward bound or outward bound through the eastern entrance to Tory Channel, is prohibited from overtaking another vessel of 350 gross tonnage or more or a tug and tow exceeding 40 metres in length in the area between a line drawn in a direction of 320°(T) from Scraggy Point light (K4266) and the point south-east of the position as set out in 4.2.7.
10. The master of every vessel of less than 350 gross tonnage or tug and tow less than 40 metres in length, in observing the requirements of this Part of the bylaw is not permitted to impede the passage of vessels of 350 gross tonnage or more.

Cautionary note

Failure to receive radio communication should not be construed by any vessel as confirmation that the eastern entrance to Tory Channel is clear. The eastern entrance to Tory Channel should be approached with due caution at all times.

4.3. General Requirements

1. No vessel of 500 gross tonnage or more is to pass or overtake another vessel of 500 gross tonnage or more between the hours of sunset and sunrise in Picton Harbour, south of 41° 16'016 south.
2. At times of restricted visibility (as defined in maritime rule, part 22 – Collision Prevention) only one vessel of 500 gross tonnage or more is permitted to navigate in Picton Harbour south of 41° 16'.16 south at any one time.
3. The pilot or master (if pilot exempt) of every vessel of 500 gross tonnage or more must navigate his or her vessel at a proper speed not exceeding 12 knots in Picton Harbour when south of 41° 16'.16 south
4. The master of every commercial vessel shall ensure, when navigating within harbour limits, that:

- (a) automatic steering 'pilot' devices, if fitted, are not to be used, unless a helmsman is standing by, to take over manual steering immediately on this being required, in the immediate vicinity of the helm or wheel; and
 - (b) use of automated navigation systems that act on their own (e.g. linked to GPS or DGPS receivers) without immediate preceding direction of the master is prohibited; and
 - (c) the main engines are to be immediately available for reducing speed, stopping or going astern at all times without delay; and.
 - (d) anchors are immediately available for letting go in an emergency and capable of being used without power; and
 - (e) all navigational aids, including but not limited to radar and depth recording devices, if fitted, are to be in continuous operation and fully utilised.
5. Every Licensed pilot shall lodge with the HarbourMaster:
- (a) A copy of the Pilotage Passage Plan
 - (b) Must ensure that any permanent changes to his or her passage plan is communicated to the Harbour Master in writing, prior to implementation
6. The master of every vessel which is pilot exempt shall lodge with the HarbourMaster:
- (a) a copy of the current passage plan for the whole of the voyage which occurs within defined pilotage limits; and
 - (b) must ensure that any permanent changes to the passage plan referred to in 4.4.3 (a) are communicated to the Harbour Master in writing prior to implementation.
7. The master of every commercial vessel while navigating within harbour limits shall ensure that sufficient trained personnel are tasked with monitoring the vessel's progress and implementation of the agreed on passage plan.
8. When navigating within harbour limits all vessels of 6 metres in length and above shall carry and consult a current copy of the appropriate nautical charts (or approved electronic equivalent).
9. The master and/or owner of every commercial vessel of 300 gross tonnage or more, or of a tug and barge exceeding 40 metres in length, operating within Queen Charlotte Sound or Tory Channel is required to carry an automatic location communicator.
10. The master of every vessel required to carry an automatic location communicator under this Bylaw must ensure that:
- (a) the automatic location communicator transmits such information in accordance with the standards and requirements specified by the Council and in accordance with the manufacturer's specifications.
 - (b) the automatic location communicator operates continuously when the vessel is navigating within Queen Charlotte Sound and Tory Channel.
11. For the purposes of this clause of the Bylaw, vessels of 300 gross tonnage or more and engaged on international voyages are, by International Convention, required to carry Class A AIS Transponders. The carriage of a Class A AIS transponder will be deemed to meet the requirements of clause 4.3.10(a) of this Bylaw.

12. All other vessels that are not required to meet the International Convention set out in Part 4.3.11 shall be required to carry a Class B AIS Transponder which has both a transmitting and receiving capability, to meet the requirements of clause 4.3.10(a) of this Bylaw.

4.4. Reporting procedures within Queen Charlotte Sound

1. The master of any commercial vessel of 20 metres or more in length or any tug engaged in towing shall, at least ten (10) minutes prior to departure, call Picton Harbour Radio on marine VHF Channel 18 to report his or her intentions, obtain information of known vessel movements and obtain current weather conditions.
2. The master of every commercial vessel of 20 metres or more in length or any tug engaged in towing shall, as soon as practicable, call 'Picton Harbour Radio' on marine VHF Channel 18 and report that his or her vessel has cleared the berth or anchorage and is underway.
3. The master of every commercial vessel of 20 metres or more in length or any tug engaged in towing shall advise 'Picton Harbour Radio' on marine VHF Channel 18 when secured at a different berth or anchorage, or when to seaward of harbour limits when outward bound.

4.5. Radio reporting for vessels taking part in organised events within Queen Charlotte Sound

1. When a group of vessels is taking part in an organised event, the controlling officer of that event must advise 'Picton Harbour Radio' of the approximate number of vessels involved, location and duration of the event and the radio channel being used.

4.6. Hazardous Cargoes, Hazardous Works and Dangerous Goods

1. Vessels Carrying Explosives:

The master of any vessel at a maritime facility or at anchor within harbour limits having on board or intending to load explosives must hoist on the vessel the International Code Flag B by day and a red light by night.

2. Hot Work Operations:

- (a) The master of any vessel at any maritime facility or at anchor within harbour limits, on board which, or on the hull of which, it is proposed to carry out welding or flame-cutting operations in or from any position, whether on board the vessel or not, must obtain, from the Harbour Master or Enforcement Officer, a Hot Work Permit in accordance with requirements as set out in Schedule 3 of this Bylaw, not less than two hours before commencing work.
- (b) The master of every vessel on board which or on the hull of which it is intended to carry out any welding or flame cutting operations must ensure that before any welding or flame-cutting operations are commenced, precautions are taken for the detection, prevention and extinguishing of fire on board the vessel or elsewhere during the welding or flame-cutting operations and that the requirements of any Hot Work Permit are met. Provision must be made for the continuance of the precautions until the operations are complete.

- (c) Where a Hot Work Permit is issued, no welding or flame-cutting operations shall commence until such time as the Harbour Master or Enforcement Officer is satisfied that the requirements of the Hot Work Permit have been met in full.
 - (d) The Harbour Master or Enforcement Officer may grant written exemption, as set out in Schedule 2, Exemptions, of this Bylaw, from compliance with clause 4.6.2 (a), (b), and (c) to a master or owner of a vessel lying at any vessel repair establishment.
3. Dangerous Goods:
- (a) The master of every commercial vessel shall ensure that, when loading, carrying or discharging Dangerous Goods, the requirements of Maritime Rule Part 24A are complied with at all times.

4.7. French Pass, and Stephens Island Passage and Cape Jackson

1. No vessel of 40 metres in length or more is permitted to transit Stephens Island Passage or the passage that exists between Cape Jackson and Walker's Rock.
2. The Harbour Master may, in writing, exempt the master of a vessel to which clause 4.7.1 applies. Any such exemption will be subject to such conditions as set out in Schedule 2, Exemptions. Any exemption issued in accordance with this clause shall remain valid for such period of time as is shown on the exemption document, but may be withdrawn at any time at the Harbour Master's discretion if the conditions of it being granted have been breached.
3. The master of every vessel intending to transit French Pass or Stephens Island Passage shall broadcast, or cause to be broadcast a radio message addressed to 'All Ships' giving warning of the intention to transit French Pass or Stephens Island Passage not less than 10 (ten) minutes before the proposed transit. This message is to be transmitted on marine VHF channel 16 and should be repeated on marine VHF channels 01 and 65.
4. All vessels intending to transit French Pass or Stephens Island Passage, upon hearing the warning broadcast referred to in clause 4.7.3 are required to establish radio contact with the other vessel and establish if they are going to be in the area at the same time.
5. Where two vessels are likely to pass each other in the vicinity of French Pass or Stephens Island Passage, the vessel which is transiting French Pass or Stephens Island Passage in the same direction as the tidal flow shall have priority and the vessel intending to transit French Pass or Stephens Island Passage against the tidal flow shall wait clear of French Pass or Stephens Island Passage until the other vessel is clear.

5 – Structures

5.1. Structures

1. In addition to the requirements of section 200 of the Maritime Transport Act 1994 and any conditions of a resource consent for a marine farm, every marine farm shall display such lights and radar reflectors as approved by the Harbour Master provided that such lights and radar reflectors shall be in accordance with the standards set out in the System of Buoyage and Beaconage for New Zealand, or any replacement rule, made under the Maritime Transport Act 1994.
2. The owner of every marine farm shall ensure that any lights fitted as required by clause 5.1.1 are operational at all times during the hours of darkness.
3. The Harbour Master or Enforcement Officer or a person authorised by the Harbour Master may at any time enter any structure or maritime facility for the purpose of inspecting the structure or maritime facility.
4. Where the Harbour Master or Enforcement Officer, during an inspection of any structure or maritime facility finds, or is advised by the person authorised by the Harbour Master referred to in clause 5.1.3, that the structure or maritime facility poses a danger to navigation, he or she may issue an infringement notice.
5. The owner of any structure or maritime facility must at all times keep the structure or maritime facility in good repair, such that the structure or maritime facility does not pose a danger to navigation.

6 – Administrative matters

6.1 Suspension and exemptions from this Bylaw

1. The Council may, of its own accord, or on application by any person, suspend any provisions of this Bylaw or exempt an activity from any provision of this Bylaw. The suspension or exemption may be subject to conditions and have effect for the period of time that the Council considers appropriate. Any suspension or exemption made under this Part must be notified to all interested persons.

6.2. Application to masters and owners

1. Where any clauses of this Bylaw impose an obligation or duty on the master of any vessel, that obligation or duty must, in the case of a vessel that has no master, be performed or carried out by the owner.
2. Where any clauses of this Bylaw impose an obligation or duty on both the master and the owner of the vessel, then, if that clause is not complied with, the master and owner are deemed severally to have committed an offence against this Bylaw. If either the master or owner complies with any such clause, then, for the purposes of this Bylaw, compliance by one is deemed to be compliance by the other.

6.3. Vessels to be licensed

1. The owner of a vessel that is not subject to any Maritime Rules made under the Maritime Transport Act 1994 dealing with the operational management of the vessel must not operate that vessel for hire or reward unless it is licensed by the Harbour Master.
2. The owner of a vessel must not use that vessel for hire or reward in any area specified in Schedule 1.1 unless it is licensed by the Harbour Master.
3. The Harbour Master may issue a license in respect of clause 6.3.1 if, in the opinion of the Harbour Master, the operation is safe and the vessel is fit for the intended purpose. Such licence will be valid for a period of 12 months.
4. The Harbour Master may issue a license in respect of clause 6.3.2 if, in the opinion of the Harbour Master, the operation will not diminish the level of safety for other activities in the vicinity, or cause congestion or jostling for position or other unsafe practices, at points of embarkation/disembarkation or at any place enroute.
5. Every licence issued by the Harbour Master under this Bylaw shall apply only to that vessel and operator(s) named in the licence.
6. Every licence issued by the Harbour Master must be available for inspection at any time by the Harbour Master, or Enforcement Officer.

7. A licence may be cancelled if its terms and conditions are breached. There will be no refund of any applicable fees if a licence is cancelled.
8. The terms and conditions of any licence issued by the Harbour Master may include, but is not limited to:
 - (a) defining points of embarkation/disembarkation; and
 - (b) defining the area or route of operations; and
 - (c) limiting the number of passengers or quantity of freight; and
 - (d) any limitations in respect of weather or operating hours; and
 - (e) any requirements for rescue craft; and
 - (f) any requirements for safety equipment; and
 - (g) the level of instruction to be given to persons hiring or using a vessel; and
 - (h) the qualification required by the person in charge of the vessel.

6.4. Offences and penalties

1. Any person commits an offence against this Bylaw who contravenes or permits a contravention of this Bylaw.
2. Every person who:
 - (a) commits an offence against this Bylaw will be liable under the Act;
 - (b) commits an infringement offence, set out in any applicable regulations created under section 330 of the Act, is liable to pay an infringement fee prescribed in the regulations made under the Act.
3. If a person is observed committing an infringement offence by the Harbour Master or an Enforcement Officer, or if the Harbour Master or Enforcement Officer have reasonable cause to believe an infringement offence has been committed by that person, an infringement notice in respect of that offence may be served on that person.
4. The Harbour Master or an Enforcement Officer may deliver the infringement notice in the manner prescribed under the Act.

7 – Fees and Charges

1. The Council may fix fees and charges pursuant to section 33R of the Act.
2. The current fees and charges payable for activities within harbour limits are listed in Schedule 5 of this Bylaw. Any changes to these fees will be publicly notified in the Council's annual plan.

Schedule 1 – Harbour and Pilotage Limits

1.1. Harbour limits

1. The seaward limit shall be a straight line commencing at the water's edge at Cape Soucis to 40° 50' south 173° 45' east, to 40° 45' south 173° 49' east, to 40° 39'.5 south 174° 00' east, to Brothers Island (41° 06' south 174° 26'.4 east), to a position 1 nautical mile east of Cape Campbell light (41° 43'.75 south 174° 17'.9 east), then 1 nautical mile offshore to Willawa Point (41° 58'.72 south 174°03'.96 east), then to the water's edge at Willawa Point.
2. The landward boundary is the line of mean high water springs, except where that line crosses a river, the landward boundary at that point shall be whichever is the lesser of:
 - (a) 0.54 nautical mile (1000 metres) upstream from the mouth of the river; or
 - (b) the point upstream that is calculated by multiplying the width of the river mouth by five (5).

1.2. Pilotage limits

1. Queen Charlotte Sound Pilotage District

Means all those waters contained within Queen Charlotte Sound having as its seaward boundary a line drawn from Cape Koamaru to Kempe Point and north of a line drawn from Dieffenbach Point in a direction of 090° to the shore of Arapawa Island at the western end of Tory Channel.

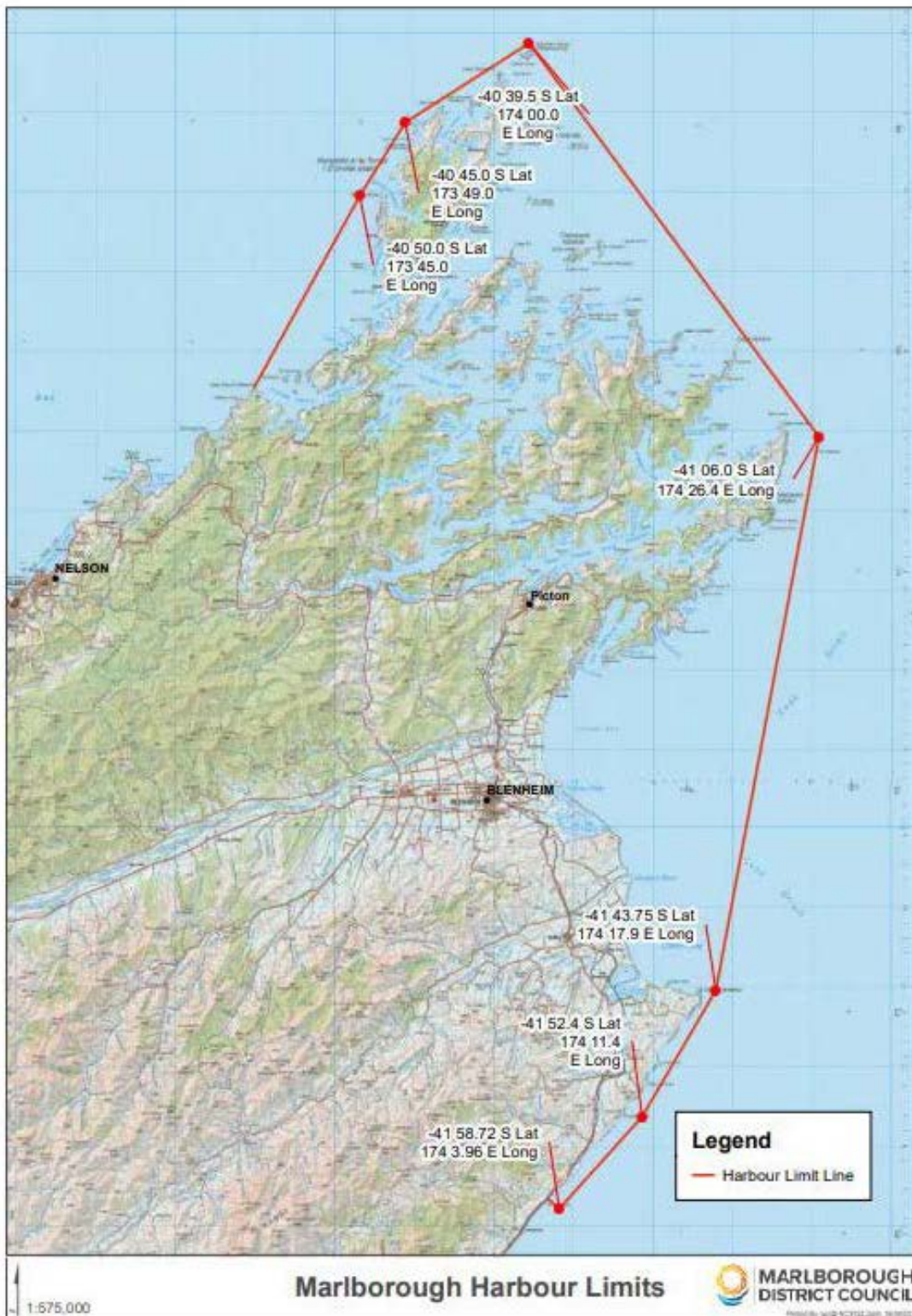
2. Tory Channel

Means all those waters within Tory Channel bound at the seaward limit by an arc, radius 3.5 nautical miles, centred on West Head light (41° 12'.8 south, 174° 18'.9 east) and south of a line drawn from Dieffenbach Point in a direction of 090° to the shore of Arapawa Island at the western end of Tory Channel.

3. Pelorus Sound, Admiralty Bay and French Pass Pilotage District

Means all those waters contained within Pelorus Sound having as their seaward boundary in the north as a straight line drawn in a direction of 353° (T) from high water mark at Alligator Head (40° 58'.1 south 174° 09'.3 east) to high water mark at Sentinel Rock (40° 53'.9 south 174° 08'.6 east) thence in a direction of 277° (T) to high water mark at Bonne Point, D'Urville Island (40°51'.6 south 173° 54'.8 east) and in the south a straight line drawn in a direction of 005° (T) from high water mark at Okuri Point (40°

58' .4 south 173° 46' .0 east) to high water mark at Sauvage Point, D'Urville Island (40° 56' .5 south 173° 46' .2 east).



Schedule 2 – Exemptions

2.1. Personal Flotation Devices

1. The Harbour Master may exempt, in writing, the person in charge of a pleasure craft from carrying personal flotation devices as required by clause 2.1.1 of this Bylaw provided a support craft remains in the immediate vicinity of the pleasure craft and the support craft carries flotation devices of an appropriate size and standard (as set out in ‘Definitions’) for each person on board the support craft and the pleasurecraft.
2. Any written exemption granted under the clause above shall be subject to such conditions as the Harbour Master considers appropriate in the interests of navigation and safety and for such period as the exemption specifies.
3. Any person in charge of a pleasure craft wishing to be exempted from carrying flotation devices as outlined above should apply, in writing, to the HarbourMaster.

2.2. Minimum Age for operating powered craft

1. The Harbour Master may, in writing, exempt a person who is under the age of fifteen (15) years for the purposes of operating a powered craft that is capable of a proper speed exceeding 10 knots. (refer clause 3.1).
2. Applications for written exemptions may be given for training, competitions or other sporting events.
3. The Harbour Master, when considering whether or not to grant such an exemption shall have regard to the competence of the person, the level of supervision, and awareness of other relevant navigation safety matters.
4. Any Exemption granted under this clause shall be valid for such period as noted on the letter of Exemption.

2.3. Hot Work Permits

1. Where any vessel is alongside any vessel repairing facility, the master or owner may apply, in writing, to the Harbour Master for an exemption for a Hot Work Permit as set out in clause 4.6.2 subclauses (a) – (d) of this Bylaw.
2. In applying for an Exemption under this clause, the master must demonstrate that all necessary precautions and requirements have been met and continue to be met while the Hot Work is in progress.

2.4. Stephens Island Passage and Cape Jackson Exemption Provisions

1. The Harbour Master may, in writing, and on application exempt the master of every vessel of 40 metres length or more and every vessel of 40 metres length or more from the requirements of clause 4.7.1 provided that:
 - (a) the master produces documented evidence that he or she has made at least four successful transits of each passage for which he or she seeks an exemption in respect of, in both directions whilst under the supervision of an exempt master. At least one transit in each direction shall be completed during the hours of darkness and all transits to have been completed within the 12 months immediately preceding the application for an exemption; and

- (b) the applicant must, to the satisfaction of the Harbour Master, have the necessary experience, local knowledge and ability to transit the passage for which the exemption is sought. The Harbour Master may consult with others when assessing a candidate's application.
- (c) on being granted an exemption, the master shall exercise the exemption a minimum of four times per year. Failure to provide the required information that an exemption has been exercised in accordance with this clause will automatically revoke the exemption.
- (d) masters shall report all incidents which occur within the passages where the exemption is being exercised to the Harbour Master, whether damage or injury occurs or not. Failure to report will result in the exemption being revoked.
- (e) applications are to be submitted on the form(s) provided for that purpose.
- (f) no fees shall be charged for the exemption.
- (g) masters employed on vessels using Stephens Island Passage or the Cape Jackson passage at the time of promulgation of this Bylaw will, on production of proof satisfactory to the Harbour Master that they have completed the required transits in the twelve (12) months immediately prior to the coming into force of this Bylaw, be issued with an exemption to navigate the relevant passages as of right.

Schedule 3 – Forms

- 3.1. Maritime Event Application Form**
- 3.2. Hot Work Permit**

Maritime Event Application Form

Harbour Master

IMPORTANT

Please ensure that you have addressed/supplied all of the under mentioned items **before** submitting your application.

Applications must be submitted a minimum of 4 weeks prior to the event date, or the application may be refused.

- Completed application form.
- Full details of the event/activity, including location, date(s), time(s), area of operation.
- A detailed nautical chart or map of the area in which the event/activity is to take place.
- A safety plan for the event, completed by the applicant, in which all risks associated with the event have been identified and managed. See on last page of this application form a 1st of safety plan requirements
- A copy of the applicant's Public Liability Insurance policy that details the insurer, insurance cover amount, relevant exclusions and policy expiry date.
- A copy of the Application for a Test Certificate for an Outdoor Pyrotechnic Display Work (if applicable).
- Written authorisation from the occupier/trustee of the foreshore land intended to be used in connection with the proposed event/activity (if applicable)

Once the application for a temporary maritime event is complete, please forward to the Harbour Master office on email:

Harbours@Marlborough.govt.nz or telephone 03 520 7400

Details of Applicant

Surname	_____	Given Names	_____
Organisation (if applicable)	_____	Position Held (if applicable)	_____
Physical Address	_____		
Postal Address	_____		
Postal Address (if different from physical address)	_____		
Suburb	Town/City	Post Code	_____
Phone Private	Phone Business	_____	
Phone Mobile	Email	_____	

Maritime Event Activity

(Detailed nautical chart or map of the area must be supplied)

Area of operation
(waterway) _____

Location
(specific area) _____

Start Time _____ Date / /

Finish Time _____ Date / /

(includes set up and pack down time required on water)

Maximum Number of participants / vessels _____

Bylaw Requirements (if applicable)

Do you require a **reserved area** (on the water) for your Maritime Event/Activity? Yes No

Do you require a **speed bylaw to be uplifted** for your Maritime Event/Activity? Yes No

Does your Maritime Event/Activity require approval for competitors not to wear lifejackets? Yes No

Are there any other **bylaws** that require uplifting for your Maritime Event/Activity? Yes No

If you answer yes to the above questions, please give brief details below and include further details/supporting documentation in your safety plan to justify.

Contents of Safety Plan

For the purpose of this application, a safety plan that is required to be submitted with this application shall include, but not be limited to:

- Analysis of all risks involved in the event and what measures will be used to eliminate, isolate or minimise those hazards.
- Numbers and types of vessels and/or people involved.
- Average and maximum vessel speeds involved.
- Map of event course(s) and required reserved areas.
- Weather Limits for event.
- Numbers and types of patrol/marshal/safety vessels and how they will be used to manage risk including preventing unauthorised vessels from entering any reserved areas.
- Details of any significant safety incidents from previous events that have been held by the event organiser, or the event safety officer has been involved in, within New Zealand in the last 5 years. Please provide details of lessons learnt and measures used to reduce similar incidents occurring.
- A communications plan between event organisers and Council.
- Schedule of Safety Briefings & key messages.
- Justification for any reserved areas and bylaw uplifting requested.
- Qualifications and /or experience of Event Organiser and Event Safety Officer.
- Contact details of Event Organiser and Event Safety Officer.
- Insurance held for the event.
- Affiliations to any national bodies that oversee the event or standards that apply to the event.

Marlborough District Council advises that a safety plan that only covers the above list is unlikely going to manage all of your risks under other statutes (such as Health and Safety in Employment

Act 1992). We strongly advise you to obtain experienced assistance if you have never completed a safety plan before.

Declaration

I _____ declare that as applicant, or on behalf of the corporate body applicant, that:

- I declare that I am authorised to act as the applicant for the purpose of the Temporary Maritime Event and that the information supplied is true and correct.
- I understand that if any detail is found to be incorrect the Temporary Maritime Event may be cancelled without notice.
- I declare that as the applicant for the maritime event, I will implement strategies to alleviate all risks associated with the maritime event.
- I agree the maritime event/activity will be run in accordance with all conditions imposed.
- I agree I will pay, on invoice, all costs incurred for the public notifications requirements of this application. I have been made aware through discussions with the Council the approximate cost of notification.
- I acknowledge that if in the opinion of the Harbour Master (or representative), the event is not managed safely, the Harbour Master (or representative) may cancel the event at any stage, and the Council will not have any liability for any losses incurred by the event organiser or competitors/participants as a result of any cancellation.
- The information I have supplied may be available to any person who enquires in accordance with the Local Government Official Information and Meetings Act 1987 and the Privacy Act 1993.

Applicant's Signature _____ **Date** _____ / ____ / ____

MARLBOROUGH DISTRICT COUNCIL
PO BOX 443
BLENHEIM 7240
NEW ZEALAND

TELEPHONE (0064) 3 520 7400
FACSIMILE (0064) 3 520 7496
EMAIL
mdc@marlborough.govt.nz
WEB www.marlborough.govt.nz



MARLBOROUGH
DISTRICT COUNCIL



HOT WORK PERMIT

Not for use on Tankers / Pipelines

Permit No.

Under section 4.6 of the Marlborough District Council Navigation Safety Bylaws, permission is hereby given for Hot work operations to be carried out in said locations:

On board Vessel: At Berth:

Subject to the following conditions:

1. All combustible materials within surrounding area removed or made safe
2. No flammable liquids, vapours, gases or dusts present
3. Suitable fire extinguishers/hoses provided on-site and fully operational
4. Operators know how to use fire fighting equipment and how and where to raise the alarm
5. Responsible member of the ship's company is in attendance if contractors are conducting the work
6. Ship's permit to work system is operational and in force
7. Both the vessel's crew and contractors are aware of the IMO Circular 1084.
8. A Responsible Ship's Officer (not involved with the hotwork) should be designated to ensure safe working practices are followed
9. The work area including all adjacent spaces must be inspected and ensured safe prior to hot work commencing. Consideration must be given to heat / spark or similar transfers into or through into adjacent spaces.
10. The work area must be isolated before hot work commences
11. A suitably instructed individual(s) must be assigned, briefed and conduct a fire watch at the work site and adjacent spaces. Isolation and Fire precautions must be continued until the risk of a fire no longer exists.
12. An inspection of the surroundings of the work area/s is carried out at least 1 (one) hour after hot work has been completed.

Gas Free Certificate: Issued By:

I/We agree to the above conditions and will ensure that they are complied with for the duration of the permit. I acknowledge that the Company I represent and the workers and contractors we use will have documented safe systems of work in place, use equipment that is certified (when required) and is fit for purpose as per worksafe/ Maritime NZ guidelines, are competent in the work being undertaken, hold all required permits for regulatory compliance and will always work in a safe manner. I also acknowledge that if lodging this request electronically, the Marlborough District Council will accept this communication as containing my signature for the purposes of Part 4 Electronic transactions of the Contract and Commercial Law Act 2017.

For the Vessel: Position: Date:
 For the Contractor Position: Date:
 Permit issued by: Position: Date:
 This permit is valid from on Until on

Vessel or contractor confirms that the work has been completed and the work site is safe Signed: Position: Date/Time

The permit must be displayed at the work area. If there is more than one work area, the original must be posted in the Ship's Office or Wheelhouse, and duplicate copies displayed each work site. Once the work has been completed and the permit closed, a copy is required to be returned to the Harbourmaster's office either in hard copy or electronically.

Revised March 2023

Schedule 4 – Access Lanes

4.1 Reserved Areas - (Swimming Areas and Water Skiing Areas)

a. Swimming Areas

Picton Foreshore	Picton	Swimming Raft, marker buoys
Picton East Shore	Shelly Beach	Marker buoys, 4 large buoys, swimming raft.
Waikawa Bay east	Waikawa Bay	Marker buoys and swimming raft

b. Water Ski Access Lanes – 1st December to Easter Monday

Ski Lane	Location	Marking / Notice
Bottle Bay	Grove Arm	4 orange and black transit markers 1 Notice
Davies Bay Umungata Bay	Grove Arm	4 black and orange transit markers 1 Notice
Kumutoto Bay	Queen Charlotte Sound	4 black and orange transit markers 1 Notice
Ngakuta Bay	Grove Arm	4 Black and orange transit markers 1 Notice
Te Mahia	Kenepuru Sound	4 Black and orange transit markers 1 Notice
Kaiapakirikiri	Queen Charlotte Sound	4 Black and orange transit markers 1 Notice
Okiwi Bay	Croiselles Harbour	4 Black and orange transit markers 1 Notice
Worlds End	Pelorus Sound	4 Black and orange transit markers 1 Notice
Double Bay	Kenepuru Sound	4 Black and orange transit markers 1 Notice

Schedule 5 – Fees and Charges

Note: Review of fees and charges will occur through the Annual Plan process and will be included in the Schedule of Fees and Charges in the Annual Plan. The charges listed in Schedule 5 are correct at the time of publication.

For the purpose of this Bylaw, the following definitions apply to activities for which fees and charges may be fixed:

Cruise Vessel	means a commercial vessel over 500 gross tonnage carrying passengers, that is not a ferry or water taxi
Cargo Vessel	means a vessel over 500 gross tonnage that is a commercial vessel not carrying passengers
Other Vessel	means a vessel that is not defined as a cruise vessel or cargo vessel but is over 500 gross tonnage
Extended Anchoring	means anchoring a vessel of 500 gross tonnage within harbour limits for more than 2 continuous weeks per year
Vessel Licensing	Means an operational license issued by the Harbour Master to a vessel that is not subject to maritime rules
Visit	means entering and leaving harbour limits on one occasion

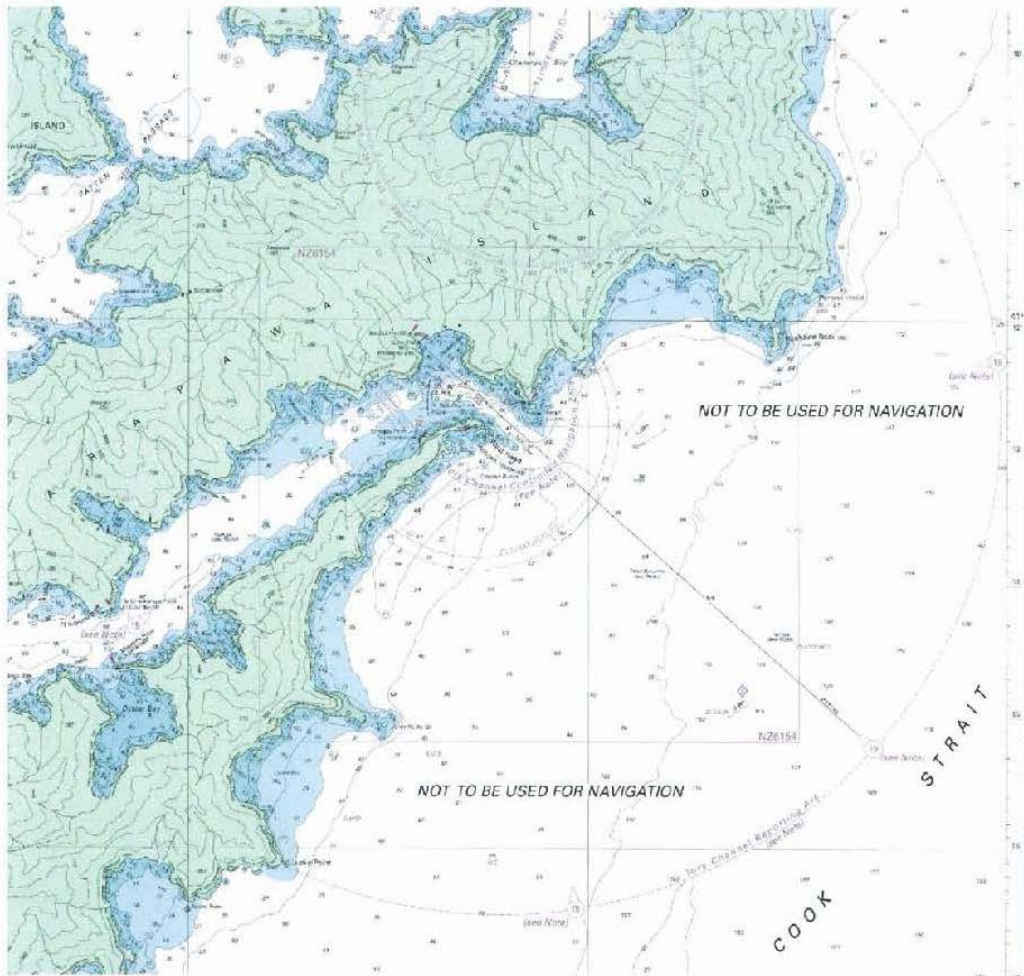
Note: the fees charged in relation to cruise vessels, cargo vessels and other vessels recover the Council's costs in respect of maintenance of the facilities to allow these vessels to enter the harbour limits and anchor (excluding costs incurred by Port Marlborough).

Table of fees and charges (GST exclusive)

<u>Category</u>	<u>Fee</u>
Cruise Vessels *	\$25 per metre per visit
Cargo Vessels *	\$0.50 per Gross Tonnage
Other Vessels *	\$0.55 per gross tonnage
Hot Work Permit	\$150 per permit
Engine Immobilisation Approval	\$200 + Staff time
Pilotage Licence Examination	\$1500
Pilotage Exemption Examination	\$1500
Extended Anchoring	\$0.10 per gross tonnage per week or part thereof
Vessel Licensing	\$200
Event Notification & Approval	\$50 + Actual advertising costs
Harbourmasters Navigation Lights	\$100 per week or part thereof per light
Staff Time	
Harbourmaster	\$236 per hour
Deputy Harbourmaster	\$153 per hour
Harbour Protection Officer	\$140 per hour
Maritime Officer	\$128 per hour
Administrator/Coordinator	\$100 per hour
Vessel Time	
Resolution	\$480 per hour – includes 2 crew
Tohora	\$480 per hour – includes 2 crew
Tuangi	\$200 per hour – includes 2 crew
Jetski	\$125 per hour – includes 1 operator

Schedule 7

Tory Channel



7. Variation 2 – Ecologically Significant Marine Sites – Summary of Decisions

(Clr Hope) (Report prepared by Louise Walker)

M100-11-07

Purpose of Report

1. To determine whether late submissions to Variation 2: Ecologically Significant Marine Sites are to be accepted.
2. To adopt a summary of decisions requested in submissions to Variation 2.
3. To approve the public notification of the summary of decisions requested.

Executive Summary

4. Submissions on Variation 2 to the PMP closed on 11 April 2023. Council is now required to summarise the decisions being sought through submissions and to publicly notify the availability of the summary. The public notification also commences the period for further submissions to be made on submissions. To progress the variation, Council needs to adopt the summary of decisions and approve its public notification.
5. In addition, three submissions were received after the submission period had closed. Council must consider whether to accept these submissions based on the matters set out in Section 37 of the RMA.

RECOMMENDATIONS

That Council:

1. **Accept the late submissions from NZ Rock Lobster Industry Council, Te Ātiawa o Te Waka a Māui Trust and Alan Riwaka.**
2. **Adopt the summary of decisions requested in submissions, as set out in Attachment 7.1.**
3. **Publicly notify the summary of decisions, as soon as practicable, in the Marlborough Express, Blenheim Sun, Nelson Evening Mail, The Post and Christchurch Press.**

Background/Context

6. In promoting the sustainable management of natural and physical resources, the RMA requires the Council to recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna as a matter of national importance (Part 2, Section 6 (c)). The protection of these values, whether on land, in freshwater or coastal environments also helps to achieve other matters of national importance, including landscape and natural character values and historic heritage.
7. In the coastal marine area, Council achieves the Part 2 requirement through the identification and mapping of Ecologically Significant Marine Sites (ESMS). The PMP currently identifies 124 ESMS and these are mapping in Volume 4.
8. When a site is identified, its tolerance to benthic disturbance is assessed and a category assigned. Sites that required a greater degree of protection are categorised as A or B. Through PMP provisions, seabed disturbance activities are restricted at these sites in order to protect the indigenous biodiversity values. Less vulnerable sites fall under category C and terrestrial only sites (such as King Shag sites) do not have a category as benthic disturbance restrictions are irrelevant.
9. In order to ensure seabed disturbance doesn't impact fragile sites, a further protection measure is provided by way of a buffer area. Those sites with a buffer are listed in Appendix 27, Volume 3 of the PMP providing additional seabed activity restrictions adjacent to the sites.

10. On 9 March 2023, Council notified Variation 2: Ecologically Significant Marine Sites to the proposed Marlborough Environment Plan. The variation proposes to:
- Add 64 new significant sites;
 - Adjust the spatial boundaries of 44 existing sites and subsites;
 - Amend the category status of one existing site where no change is made to the site boundary;
 - Add ESMS 5.5: Hitaua Bay to standard 16.3.16.1, placing a restriction on the take and use of coastal water;
 - Add new sites to Appendix 27 of Volume 3 as applicable (as required by their category rating).

The variation intention is to give effect to the existing planning framework and therefore does not propose to amend any PMEP objectives, policies, rules or methods.

11. The above proposed changes reflect the information gathered through the ESMS programme's annual reports. On 24 November 2022, at a meeting of the Environment and Planning Committee, the variation content, which proposes to amend the PMEP, was received and adopted.
12. On 9 March 2023 the variation was publicly notified. 63 submissions were received on the variation from 39 submitters. Of those, three submitters provided their submissions subsequent to the close off date for submissions of 11 April 2023.
13. The process for variations to a plan are specified in Schedule 1 of the Resource Management Act 1991 (RMA). Once submissions are received, Council is required to summarise the decisions being sought and then to publicly notify the availability of the summary. This notification also commences the further submission process.

Assessment/Analysis

Late submissions

14. The next step in the Schedule 1 process for this variation is to publicly notify a summary of decisions requested in submissions. The summary is provided in Attachment 7.1. It comprises all submissions lodged, including those received late. The late submissions are set out below:
- a) NZ Rock Lobster Industry Council – received on 14 April 2023 (3 working days late). The reason provided for the delay in lodging the submission was:
- We were unable to provide the submission by the closing date due to confirming information relevant to the submission with our constituents.*
- b) Te Ātiawa o Te Waka a Māui Trust – received on 28 April 2023 (12 working days late). The reason provided for the delay in lodging the submission was:
- Te Ātiawa Trust acknowledges that this submission on Variation 2 of the MEP: Ecologically Significant Marine Sites (ESMS) is late. We therefore request an extension for the submission of Variation 3 of the pMEP. Te Ātiawa Trust informed Council's Policy Team of the fact that an extension would be sought soon after the variations were notified. Due to the high level of interest from our whānau, competing priorities, limited capacity, other variations being notified concurrently and public holidays, we were unable to complete the work within the prescribed deadline. We understand the importance of timely submissions, but believe that a short extension has enabled us to deliver a more comprehensive and accurate submission.*
- c) Alan Riwaka – received on 2 May 2023 (13 working days late). The reason provided for the delay in lodging the submission was:
- I apologise for the lateness of this submission owing to other significant matters beyond my control. More specifically, pressures in the Environment Court have until 28th April prevented me from responding until now. I can provide evidence in support of the Environment Court and my leadership role in leading Iwi arguments against the proposed Auckland Landfill.*

15. The Council must decide whether to accept the late submissions. Council may waive a failure to comply with the time period for lodging a submission under Section 37 of the RMA. In making its decision, Council must take into account:
 - a) The interests of any person who, in its opinion, may be directly affected by the extension or waiver; and
 - b) The interests of the community in achieving adequate assessment of the effects of a policy statement or plan; and
 - c) The Council's duty under Section 21 to avoid unreasonable delay.
16. All three submissions were able to be incorporated into the summary of decisions without causing a delay to the process. It is therefore recommended that the late submissions be accepted.

Summary of decisions

17. A summary of decisions, as the name suggests, summarises the decisions requested by persons who have made a submission on the variation (in accordance with Clause 7(1) of Schedule 1, RMA). The submission form (Form 5), that is prescribed in the RMA for a submission, includes a section for the decision sought from the local authority. Generally, this text is used to complete the data set. In some instances additional wording is added to provide context.
18. The summary of decisions for Variation 2 is attached as Attachment 7.1. In order to progress the variation, Council is required to adopt the summary.

Public notification

19. Under the RMA, Council is required to publicly notify when the summary of decisions is made available for inspection. The summary of decisions should be publicly notified in the same newspapers as the original public notice for the variations, in this case Marlborough Express, Blenheim Sun, Nelson Evening Mail, The Post and Christchurch Press. In addition, the Council is required to serve a copy of the public notice on all persons who made submissions (in accordance with Clause 7(2) of Schedule 1, RMA).
20. At notification, a hard copy of the summary of decisions will be made available for viewing at Council's Blenheim Office, the Marlborough Library, and Council's Picton Office/Picton Library. In addition, the summary will also be made available via Council's website.
21. On notification of the summary of decisions, there is then an opportunity for the following persons to make further submissions (in accordance with Clause 8 of the First Schedule of the RMA 1991):
 - a) Any person representing a relevant aspect of the public interest; or
 - b) Any person that has an interest in the variations greater than the interest that the general public has; or
 - c) The Council.
22. Further submissions must be limited to a matter either in support of or in opposition to a submission.
23. The period for making further submissions cannot exceed 10 working days, as set out in Clause 7(1)(c) of Schedule 1, RMA. The Council has discretion under Section 37, RMA to extend the period for making further submissions, but must take into account the matters listed in para 12 above. In this instance, an increase in the time period is not being recommended as there are no extraordinary circumstances that would negate Council's duty (Section 21) to avoid unreasonable delay.

Next steps

24. A hearing will be held to hear submissions on the variation. A report will be presented to a future committee seeking the appointment of a hearing panel for that process.

Attachment

Attachment 7.1 – Summary of decisions

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Author	Louise Walker, Strategic Planner
Authoriser	Pere Hawes, Manager – Environmental Policy

Sub#	Organisation	Name/Contact	Comments	Summary of decision sought in submission
1	Paddy Bull Limited	Emma Deason	ESMS 6.3	Marine farm 8455 partially overlaps with ESMS 6.3 and its buffer. The plan should record that marine farm 8455 does not interfere with the ESMS 6.3 or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a. The existing location of the farm; b. The location of the farm as proposed in the MFA/AQNZ submission to Variation 1; and/or c. The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. Paddy Bull Limited supports the submission of Marine Farming Association Inc and adopts it as its own.
2	KPF Investments Limited and United Fisheries Limited	Quentin Davies and Emma Deason	ESMS 3.15	The plan should record that marine farm 8544 does not interfere with the ESMS 3.15 or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a. The existing location of the farm; b. The location of the farm as proposed in the MFA/AQNZ submission to Variation 1; and/or c. The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court.
3	Sanford Limited	Allison Underoff-Lay	ESMS 3.24	Sanford seeks that the plan should record that farms MF 8257 and 8258 do not impact on the values of the proposed ESMS and the location or operation of the farms need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. In the alternative, the ESMS or the buffer of the ESMS could be adjusted so that it is not affected by: a. The existing location of the farm; b. The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or Sanford's submission to Variation 1; c. A benthic survey and any recommendations; and/or d. The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court, or by giving effect to this submission as part of Variation 2.
4	Marlborough District Council	Louise Walker	ESMS 6.3	At notification, the spatial extent of ESMS 6.3 was not correctly shown on the Variation 2 SmartMap. The error was noted soon after and the correct extent of the proposed ESMS provided on the SmartMap to allow for map user to have an understanding of the full extent of the site. Council requests the full extent of ESMS 6.3 is included in the variation.
5		Frank Prendeville	ESMS 3.11	The plan should record the farm (MF 8215) does not interfere with the ESMS (3.11) or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a. The existing location of the farm; b. The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or Frank Prendeville submission to Variation 1; and/or c. The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. I support the submission of Marine Farming Association Inc and adopt it as my own.
6	Goulding (director Goulding Trustees Ltd and Shellfish Marine Farms Ltd)	James Goulding (director Goulding Trustees Ltd and Shellfish Marine Farms Ltd)	ESMS 3.31	The plan should record the farm (MF 8090) does not interfere with the ESMS (3.31) or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a. The existing location of the farm; b. The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or James Goulding submission to Variation 1; and/or c. The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. Shellfish Marine Farms Ltd, James Goulding, support the submission of Marine Farming Association Inc and adopt it as our own.
7		Martin Pinder	Whole variation	The exercise to establish new ESM (red) sites in Tory Channel is welcomed, as too is the proposed enlargement of the buffer zones around the existing (blue) sites. Recognising the value ESM sites along Tory Channel the MDC has this opportunity to simply connect all the sites, both Red and Blue zones and recognise that the whole of Tory Channel, Kura Te Au, is an ecologically significant body of water and should be formally registered as such. I request the proposed ESMS numbered 5.11A be extended South to connect with zone 5.4D. I request 5.11A be enlarged to the North to include the kelp beds at the point of Deep Bay, and possibly for 5.11A to connect with zone 5.8A I request ESMS 5.4C be extended north to include the point that hosts sea weed and kelp.
8	Marlborough Environment Centre	Bev Doole	Whole of the variation	Approval of Variation 2: Ecologically Significant Marine Sites (ESMS) Proposal to amend existing ESMS boundaries and to include new ESMS. MEC also seeks urgent priority be given to research and monitoring at Sites 2.28 McManaway Rocks and 2.29 Witt Rocks with a view to increasing the spatial boundaries/buffer zones.
9	Kono NZ LP and Wakatū Incorporation	Riki Kotua	ESMS 3.6	The plan should record the farm (MF 8456) does not interfere with the ESMS (3.6) or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a. The existing location of the farm; b. The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or Kono NZ LP and Wakatū Incorporation joint submission to Variation 1; and/or c. The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. If any change to a marine farm location is proposed the marine farm(s) should be relocated in accordance with the Kono NZ LP and Wakatū Incorporation joint submission on variation 1. We support the submission of Marine Farming Association Inc and adopt it as our own.
10	Guardians of the Sounds	Martin Pinder	Tory Channel ESMS	That the length of the coastal corridor, from the entrance of Cook Strait to Diffenbach Point (Tory Channel) be designated an Ecologically Significant Marine area. Furthermore, we wish to express our concerns regarding the level of significance given to McManaway Rock. We believe that this ecologically diverse site has not been given the same level of protection as other ecologically sensitive marine sites in the region. McManaway Rock needs a level A designation and an increased buffer zone to 200 metres as a minimum. We strongly suggest that further scientific research be conducted on the pristine marine environments in the area surrounding McManaway Rock. The Guardians are concerned about the lack of ESMS sites in areas such as D'Urville Island as well as an absence of ESMS sites in areas adjacent to aquaculture activity. The MDC needs to urgently assess and impose coastal occupancy charges that directly relate to the impact that the Aquaculture industry may or may not be having on the coastal environment.
11	Ngā whanau of Ngāti Koata and Ngāti Toa Rangatira iwi who have landholdings near the proposed ecologically significant marine	Hori Turi Elkington	Whole variation	That MDC meet with Ngāti Koata and Ngāti Toa Rangatira face to face to review both risks and benefits to the environment and the taonga within the rohe moana of respective iwi and to plan the best way forward in partnership.
12	Mildred Connor Whanau Trust	Glenice Paine	Whole variation	We seek that the issues around cultural impacts on Maori and Maori landowners be specifically addressed before any further restrictions are placed on activities that are critical to the future utilisation of Maori owned land, and/or culturally significant sites (both land and sea). As a minimum, it is submitted that unrestricted marine accessways be provided that ensure safe ongoing access to the lands concerned, and that no further restrictions be placed on Maori that impede cultural practices, including (but not limited to) the ability to moor, anchor, construct landings, and grow and harvest kaimoana.
13	CRAMAC 5	Mitch Campbell	Whole variation	We understand the proposed variation includes a prohibition on anchoring within the new ecological significant marine sites. We wish to note that it is an accepted defence to prosecution if the defendant proves that any anchoring (which is alleged to constitute an offence) was necessary for the purpose of saving life or a ship. We would recommend this exception to the rule be included within the proposed variation. CRAMAC 5 understand that the proposals within the Section 32 Report are unlikely to have any effect on current and historic commercial fishing practices in CRA5 and this application will not undermine established CRA5 property rights, nonetheless (without prejudice) we feel a position needs to be presented on behalf of our members. CRAMAC 5 will happily work with MDC regarding any spatial allocation issues into the future and supports the view of the Minister of Oceans and Fisheries in relation to this matter – this includes “an assessment of the impacts the proposed closures might have on fishers, and how education and enforcement of any new areas might be achieved”.
14	Minister of Conservation	Murray Brass	Whole variation	The decision sought in this submission is required to ensure that the Variation: a. Implements the outcomes of the Expert Panel process; b. Gives effect to the New Zealand Coastal Policy Statement 2010; c. Recognises and provides for the matters of national importance listed in section 6 of the Act and to has particular regard to the other matters in section 7 of the Act; and d. Promotes the sustainable management of natural and physical resources.

15		Terence Schwass	ESMS 6.3	The plan should record that marine farm 8453 does not interfere with the ESMS 6.3 or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a. The existing location of the farm; b. The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or Terry Schwass's submission to Variation 1; and/or c. The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. We support the submission of Marine Farming Association Inc and adopt it as our own.
16		Terence Schwass	ESMS 6.1	The plan should record the farm does not interfere with the ESMS or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a. The existing location of the farm; b. The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or Terry Schwass's submission to Variation 1; and/or c. The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. We support the submission of Marine Farming Association Inc and adopt it as our own.
17	Sheena Kilmister on behalf of John Baird Seggie, Annie Christine Seggie and Ivor Anthony Millington as trustees of the J & A Seggie Family Trust.	Rebecca Clarkson	ESMS 3.12	The plan should record that MF 8240 does not interfere with ESMS 3.12 or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a. The existing location of the farm; b. The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or the J & A Seggie Family Trust submission to Variation 1; and/or c. The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. We support the MFA submission and adopt it as our own.
18	Dave Norton on behalf of Tory Channel Aquaculture Limited	Rebecca Clarkson	ESMS 5.3	The plan should record that marine farm 8405 does not interfere with the ESMS 5.3 or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a. The existing location of the farm; b. The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or the Tory Channel Aquaculture Limited submission to Variation 1; and/or c. The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. We support the submission of the Marine Farming Association and adopt it as our own.
19	Simon Pooley on behalf of Tawhitiui Greenshell Limited	Rebecca Clarkson	ESMS 3.8	The plan should record that MF 8203 does not interfere with ESMS 3.8 or the buffer of the ESMS and the location or operation of the farms need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a. The existing location of the farm; b. The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or the Robert and Simon Pooley submission to Variation 1; and/or c. The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. We support the MFA submission and adopt it as our own.
20	James King-Turner on behalf of the King-Turner Family.	Rebecca Clarkson	ESMS 3.8	The plan should record that neither 8196, 8197, more 8198 interfere with their respective ESMS (3.8) or the buffer of the ESMS and the location or operation of the farms need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a. The existing location of the farm; b. The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or the James King-Turner submission to Variation 1; and/or c. The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. We support the MFA submission and adopt it as our own.
21	John Young on behalf of Clearwater Mussels Limited	Rebecca Clarkson	ESMS 3.7	The plan should record that MF 8180 does not interfere with ESMS 3.7 or the buffer of the ESMS and the location or operation of the farms need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a. The existing location of the farm; b. The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or the Clearwater submission to Variation 1; and/or c. The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. We support the MFA submission and adopt it as our own.
22	Beryl Archer on behalf of John Roderick Hebbard & Beryl Evelyn Archer & Sandra Kaye Robson 'Buxton Nominees (Robson) Limited' & Phillip James Robson.	Rebecca Clarkson	ESMS 3.8	The plan should record that 8200 does not interfere with the ESMS or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a. The existing location of the farm; b. The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or the Beryl Archer and John Hebbard submission to Variation 1; and/or c. The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. We support the MFA submission and adopt it as our own.
23	WW & AM Scholefield and Mt Zion Charitable Trust	Bill Scholefield	ESMS 3.24	As there is no marine farming allowed in this Marine Farming exclusion zone ESMS 3.24 is not necessary .
24	Scott Madsen Family Trust	David Clark	ESMS 6.3	The plan should record the farm (MF 8628) does not interfere with the ESMS (6.3) or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done by simply redrawing the EMS to avoid overlap with the farm. That is the primary aim of the submission. Alternatively, it could be addressed as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. Therefore, the buffer and the ESMS should be adjusted so that it is not affected by: a. The existing location of the farm; b. The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or Scott Madsen Family Trust's submission to Variation 1; and/or c. The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. We support the submission of Marine Farming Association Inc and adopt it as our own.
25	Marine Farming Association	Emma Deason and Quentin Davies	ESMS 3.8	For MF 8193, the plan should record the farm does not interfere with the ESMS (ESMS 3.8) or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a. The existing location of the farm; b. The location of the farm as proposed in the MFA/AQNZ submission to Variation 1; and/or c. The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. If any change to a marine farm location is proposed the farm(s) should be relocated in accordance with the MFA/AQNZ submission on Variation 1.
26	Marine Farming Association	Emma Deason and Quentin Davies	Whole variation	Generally for any marine farm and ESMS or ESMS buffer overlap, the plan should record the farm does not interfere with the ESMS or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a. The existing location of the farm; b. The location of the farm as proposed in the MFA/AQNZ submission to Variation 1; and/or c. The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. If any change to a marine farm location is proposed the farm(s) should be relocated in accordance with the MFA/AQNZ submission on Variation 1.
27	Marine Farming Association	Emma Deason and Quentin Davies	ESMS 3.8	For MF 8194, the plan should record the farm does not interfere with the ESMS (ESMS 3.8) or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a. The existing location of the farm; b. The location of the farm as proposed in the MFA/AQNZ submission to Variation 1; and/or c. The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. If any change to a marine farm location is proposed the farm(s) should be relocated in accordance with the MFA/AQNZ submission on Variation 1.

28	Marine Farming Association	Emma Deason and Quentin Davies	ESMS 6.3	For MF 8452, the plan should record the farm does not interfere with the ESMS (ESMS 6.3) or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a.The existing location of the farm; b.The location of the farm as proposed in the MFA/AQNZ submission to Variation 1; and/or c.The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. If any change to a marine farm location is proposed the farm(s) should be relocated in accordance with the MFA/AQNZ submission on Variation 1.
29	The New Zealand King Salmon Co Limited	Emma Deason and Quentin Davies	Whole variation	For any marine farm and ESMS or ESMS buffer overlap, the plan should record the farm does not interfere with the ESMS or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in MFA/AQNZ's and/or NZ King Salmon's appeal to the pMEP, both dated 8 May 2020. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a.The existing location of the farm; b.The location of the farm as per proposed Marlborough Environment Plan Variation 1A or any future planning process.
30	The New Zealand King Salmon Co Limited	Emma Deason and Quentin Davies	ESMS 5.8A, 5.8B, 5.8C, 5.11C	For marine farm MF 8634 and generally for any marine farm and ESMS or ESMS buffer overlap, the plan should record the farm does not interfere with the ESMS or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in MFA/AQNZ's and/or NZ King Salmon's appeal to the pMEP, both dated 8 May 2020. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a. The existing location of the farm; b. The location of the farm as per proposed Marlborough Environment Plan Variation 1A or any future planning process.
31	The New Zealand King Salmon Co Limited	Emma Deason and Quentin Davies	ESMS 5.4D	For marine farm MF 8407 and generally for any marine farm and ESMS or ESMS buffer overlap, the plan should record the farm does not interfere with the ESMS or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in MFA/AQNZ's and/or NZ King Salmon's appeal to the pMEP, both dated 8 May 2020. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a.The existing location of the farm; b.The location of the farm as per proposed Marlborough Environment Plan Variation 1A or any future planning process.
32	The New Zealand King Salmon Co Limited	Emma Deason and Quentin Davies	ESMS 5.4i and 5.4j	For marine farm MF 8408 and generally for any marine farm and ESMS or ESMS buffer overlap, the plan should record the farm does not interfere with the ESMS or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in MFA/AQNZ's and/or NZ King Salmon's appeal to the pMEP, both dated 8 May 2020. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a.The existing location of the farm; b.The location of the farm as per proposed Marlborough Environment Plan Variation 1A or any future planning process.
33	Kenepuru and Central Sounds Residents' Association	Andrew Caddie	Whole variation	Based on the Council Section 32 report Council has identified 64 new significant sites. We support that outcome. We support Council's proposal that these ESMS sites be added to Appendix 27 of volume 3 of the MEP. Council has adjusted the spatial boundaries of 44 existing sites. As far as we can ascertain from the Section 32 report all but one of those adjustments resulted in the current ESMS category being retained or upgraded. We support that outcome. Similarly in all but one case the review has resulted in all but one of the subject 44 existing sites having its current buffer boundary retained or increased. We support that outcome and any necessary consequential adjustments to the MEP. We strongly submit that further scientific research be conducted on the pristine marine environments in the marine area surrounding McManaway Rock. We respectfully submit that Council needs to urgently review and consider this footage as part of its assessment and review of McManaway Rock as an ESMS.
34	Kenepuru and Central Sounds Residents' Association	Andrew Caddie	ESMS 4.25	From the section 32 report we understand that Council is proposing that current ESMS 4.25 (East Bay North) is to have its current A category status reduced to B and its current buffer boundary reduced from 100 m to 50 m. We have not been provided with enough information to support that adjustment and accordingly, in the interim, we do not support those proposed changes.
35	Kenepuru and Central Sounds Residents' Association	Andrew Caddie	ESMS 7.4	From the section 32 report we understand that Council is proposing that current ESMS 7.4 (Moturara Bay) is to have its current A status reduced to B. We feel we have not been provided with enough information to support that adjustment and accordingly, in the interim, we do not support that proposed change. We do not support those proposed change.
36	Talley's Group Limited	Ron Sutherland	ESMS 6.3	The plan should record the farm (MF 8454) does not interfere with the ESMS or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a. The existing location of the farm; b.The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or Talley's Group Limited submission to Variation 1; and/or c. The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. We support the submission of Marine Farming Association Inc and adopt it as our own.
37	Talley's Group Limited	Ron Sutherland	ESMS 3.23	The plan should record the marine farm 8177 does not interfere with the ESMS (3.23) or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a.The existing location of the farm; b.The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or Talley's Group Limited submission to Variation 1; and/or c.The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. We support the submission of Marine Farming Association Inc and adopt it as our own.
38	Talley's Group Limited	Ron Sutherland	ESMS 3.9	The plan should record that marine farm 8202 does not interfere with the ESMS (3.9) or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a.The existing location of the farm; b.The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or Talley's Group Limited submission to Variation 1; and/or c.The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. We support the submission of Marine Farming Association Inc and adopt it as our own.
39	Talley's Group Limited	Ron Sutherland	ESMS 3.8	The plan should record the marine farm 8192 does not interfere with the ESMS (ESMS 3.8) or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a.The existing location of the farm; b.The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or Talley's Group Limited submission to Variation 1; and/or c.The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. We support the submission of Marine Farming Association Inc and adopt it as our own.
40	Talley's Group Limited	Ron Sutherland	ESMS 4.23	The plan should record the farm (MF 8399) does not interfere with the ESMS or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a. The existing location of the farm; b. The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or Talley's Group Limited submission to Variation 1; and/or c. The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. We support the submission of Marine Farming Association Inc and adopt it as our own.

41	Talley's Group Limited	Ron Sutherland	ESMS 3.8	The plan should record the marine farm 8191 does not interfere with the ESMS (ESMS 3.8) or the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a.The existing location of the farm; b.The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or Talley's Group Limited submission to Variation 1; and/or c.The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. We support the submission of Marine Farming Association Inc and adopt it as our own.
42	Southern Inshore Fisheries Management Co and Inshore Council of Seafood New Zealand	Carol Scott	Identification, investigation and Validation of ESMS	We have a concern that the process needs to have an additional prioritisation step to be added to the process. The Council process operates at the specific site level and all sites of a particular ecological type are accorded equal value and are listed for protection. The Council is not required to protect all sites of ecological value or all biodiversity in its domain. The Court recognised that "Mimiwhangata would provide an appropriate exemplar for protection for ecotones and it is not necessary to protect the entire coastline from Cape Brett down to Mimiwhangata". We interpret this to mean that providing exemplars are protected, it is not appropriate to protect all examples of the ecotone protected. In para 201, Smith recognised the intent is to protect the significant elements of the biodiversity while allowing other activities including recreational fishing, motoring and other anchorage and the like to occur. We note that the MDC is currently reviewing its ESMS programme. We would recommend that the above process be implemented in any reviewed programme.
43	Southern Inshore Fisheries Management Co and Inshore Council of Seafood New Zealand	Carol Scott	ESMS 2.10 A and B	We submit that the Council needs to identify the ecological groups of ESMS and within them choose the best and better examples and protect them rather than seek to protect every example of high biodiversity value. We would see some merit in the MDC choosing neighbouring sites and grouping them into a larger contiguous ESMS that would allow for interconnections around headlands. This would provide a better and more ecologically desirable outcome for the Tory Channel.
44	Southern Inshore Fisheries Management Co and Inshore Council of Seafood New Zealand	Carol Scott	ESMS 3.9	Bottom trawling and scallop dredging is already prohibited in the Tennyson Inlet area below a line between Cregeoe Point and Camel Point under Fisheries Act regulations. We cannot reconcile the description of the new more extensive ESMS with the criteria for an ESMS. The only additional protection of Category C is to prevent the removal of any indigenous vegetation within 20 metres of the high-water mark. The indigenous vegetation is already protected under MDC rules and the extension of the ESMS will not add any additional protection to the Inlet or the surrounding forest. We see no reason for the ESMS extension in Tennyson Inlet for the above reasons.
45	Royal Forest and Bird protection Society of New Zealand Inc	Scott Burnett	Whole variation	Forest & Bird supports the additions and amendments proposed in the Section 32 Report. Including: <ul style="list-style-type: none"> •The addition of 64 new Ecologically Significant Marine Sites •The proposed adjustment of spatial boundaries of 44 existing sites. •The other adjustments and changes recommended.
46	Southern Inshore Fisheries Management Co and Inshore Council of Seafood New Zealand	Carol Scott	Tory Channel ESMS	We have not tried to precisely measure the area of the proposed ESMS but estimate that they cover nearly half of the Channel shore line. We consider that to be unreasonable and cannot support the proposals. We note that the biodiversity of the Channel is protected by the remoteness and the physical environment of the Channel. We noted the existence of many duplicates in the Variation 2 ESMS and recommended the MDC prioritise the possible sites and select the best examples for protection. We do not have the time or resources to review each proposed ESMS to provide a prioritisation and a priority selection. We leave that to the MDC to undertake.
47	Southern Inshore Fisheries Management Co and Inshore Council of Seafood New Zealand	Carol Scott	Impact on Commercial Bottom Trawling and Dredging	On the basis of the material referred to above, we are confident that there is no material or, even possibly, no overlap between current commercial bottom trawling and dredging and the ESMS in the Variation. We are unable to say that the ESMS would never impact on future trawling and dredging that might occur within the Marlborough Sounds. The practice of bottom trawling is evolving and techniques might be developed that might allow fish to be harvested without bottom contact or with more limited bottom contact or with contact that does not have adverse effects on the benthos.
48	Southern Inshore Fisheries Management Co and Inshore Council of Seafood New Zealand	Carol Scott	Prohibition of Anchoring	This will give a total of 86 ESMS that prohibit anchorage. The site reports do not support that anchoring has had any material effect upon the biodiversity in those sites. We cannot accept that there are sound scientific grounds for the 86 sites that require them to be anchor-free. Conversely, the number of anchoring prohibited sites will have a significant impact on the economic, social and cultural wellbeing of people who currently anchor in those areas. We cannot support the prohibition of anchoring in ESMS in the pMEP and would request MDC to review the prohibition in toto.
49	Southern Inshore Fisheries Management Co and Inshore Council of Seafood New Zealand	Carol Scott	The Shape of ESMS	Parties agreed that the use of straight lines between regulated points was a more pragmatic way for all parties that would be involved in having to comply with or monitor or manage an ESMS. Sinuous curves continue a sense of precision but are difficult to programme into marine navigation gear. For the above reasons, we submit the pMEP should convert the ESMS boundaries to a series of straight lines. We appreciate this will entail some effort given the number of ESMS but regard it to be a pragmatic step for the Council.
50	Southern Inshore Fisheries Management Co and Inshore Council of Seafood New Zealand	Carol Scott	Buffers	We would submit that the MDC should seek to merge the buffers into the ESMS with one level of protection. We recognise this will extend the size of the ESMS per se but it only seeks to give a more pragmatic outcome to what is already proposed and prevent the MDC from having to consider what administrative and approval processes, information and monitoring would be appropriate for a consent activity that will never in any event be requested.
51	Sanford Limited	Alison Underf-Lay	ESMS 3.31	Sanford seeks that the plan should record that marine farm 8091 does not impact on the values of the proposed ESMS (3.31) and the location or operation of the farms need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. In the alternative, the ESMS or the buffer of the ESMS could be adjusted so that it is not affected by: a.The existing location of the farm; b.The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or Sanford's submission to Variation 1; c.A benthic survey and any recommendations; and/or d.The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court, or by giving effect to this submission as part of Variation 2.
52	Sanford Limited	Alison Underf-Lay	ESMS 3.36	Sanford seeks that the plan should record that marine farm 8206 does not impact on the values of the proposed ESMS (3.36) and the location or operation of the farms need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. In the alternative, the ESMS or the buffer of the ESMS could be adjusted so that it is not affected by: a.The existing location of the farm; b.The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or Sanford's submission to Variation 1; c.A benthic survey and any recommendations; and/or d.The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court, or by giving effect to this submission as part of Variation 2.
53	Sanford Limited	Alison Underf-Lay	ESMS 3.12	Sanford seeks that the plan should record that marine farm 8241 do not impact on the values of the proposed ESMS (3.12) and the location or operation of the farms need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. In the alternative, the ESMS or the buffer of the ESMS could be adjusted so that it is not affected by: a.The existing location of the farm; b.The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or Sanford's submission to Variation 1; c.A benthic survey and any recommendations; and/or d.The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court, or by giving effect to this submission as part of Variation 2.
54	Sanford Limited	Alison Underf-Lay	ESMS 3.8	Sanford seeks that the plan should record that MF 8573 does not impact on the values of the proposed ESMS and the location or operation of the farms need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. In the alternative, the ESMS or the buffer of the ESMS could be adjusted so that it is not affected by: a.The existing location of the farm; b.The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or Sanford's submission to Variation 1; c. A benthic survey and any recommendations; and/or d.The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court, or by giving effect to this submission as part of Variation 2.
55	Apex Marine Farm Limited	Emma Deason, Quentin Davies and Sophia Kim	ESMS 5.4C	The plan should record the farm (MF8406) does not interfere with the ESMS (5.4C) nor the buffer of the ESMS and the location or operation of the farm need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a.The existing location of the farm; b.The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or Apex Marine Farm Ltd submission to Variation 1; and/or c.The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. Apex supports the submission of Marine Farming Association Inc and adopts it as its own.
56	New Zealand Rock Lobster Industry Council	James Robertson	Whole variation	Although the Council's process to identify, evaluate and design ESMS has been evidence-based and generally rigorous, we believe there could have been more consideration of protecting representative sites, which could have led to a more appropriate number of ESMS being proposed. NZ RLIC recommends that MDC give further consideration to protecting representative sites so the number of ESMS is appropriate.

57	New Zealand Rock Lobster Industry Council	James Robertson	Prohibition of Anchoring - Category A	The 85 ESMS proposed to be designated as Category A would contain restrictions on anchoring. Such a large number of sites prohibiting anchoring will have a significant impact on the economic, social and cultural wellbeing of people who currently anchor in those areas, including CRAMAC 5 members. NZ RLIC recommends that MDC re-evaluate ESMS for sufficient evidence of exceptional biodiversity value to determine if it is necessary to protect the current number of ESMS on reasonable grounds this will be compromised by anchoring.
58	New Zealand Rock Lobster Industry Council	James Robertson	Design of ESMS Boundaries and Buffers	NZ RLIC recommends that MDC increase the protection of buffers to align the level of protection of their corresponding ESMS, and adjust the ESMS boundaries in the PMEP to straight lines while minimising the area covered not requiring protection. As the size of the ESMS will be effectively extended with the incorporation of buffers, adjusting the boundaries in respect of the buffers would provide a more pragmatic approach to compliance and enforcement without eroding the discrete area identified for protection.
59	New Zealand Rock Lobster Industry Council	James Robertson	Management of Impacts on Fisheries Resources	NZ RLIC strongly recommends MDC consider regulation of activities causing sedimentation management issues to the ESMS so they are sufficiently robust to prevent any loss of considerable biodiversity.
60	Simon Pooley on behalf of Tawhitinui Greenshell Limited	Rebecca Clarkson	ESMS 3.11	The plan should record that 8216 does not interfere with ESMS 3.11 or the buffer of the ESMS and the location or operation of the farms need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a.The existing location of the farm; b.The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or the Robert and Simon Pooley submission to Variation 1; and/or c.The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. We support the MFA submission and adopt it as our own.
61	John Young on behalf of Clearwater Mussels Limited	Rebecca Clarkson	ESMS 3.7	The plan should record that MF 8201 does not interfere with ESMS 3.8 or the buffer of the ESMS and the location or operation of the farms need not be altered as a result of the creation of the ESMS or the buffer of the ESMS. That is best done as an annotation to the mapping of the ESMS and/or the buffer of the ESMS, or in another way as proposed in the MFA/AQNZ appeal dated 8 May 2020 to the pMEP. In the alternative, the ESMS or the buffer of the ESMS should be adjusted so that it is not affected by: a.The existing location of the farm; b.The location of the farm as proposed in the MFA/AQNZ submission to Variation 1 or the Clearwater submission to Variation 1; and/or c.The location of the farm as determined by Variation 1, either by the MDC hearings panel or on appeal by the Court. We support the MFA submission and adopt it as our own.
62	Te Ātiawa o Te Waka-a-Māui Trust	Sylvie Filipo	Whole variation	While Te Ātiawa understands the importance of protecting the natural environment, we believe the proposed changes have neglected to assess the cultural effects and the specific effects on Te Ātiawa as kaitiaki and mana whenua. For this reason, Te Ātiawa Trust opposes the proposed Variation 2 and seeks a Cultural Effects Assessment (CEA). The people of Te Ātiawa are kaitiaki within the Rohe and carry a responsibility for ensuring that the mauri or essential life principle of the natural world is vibrant. While Te Ātiawa appreciates the need to protect the natural environment, we believe that the proposed changes could have a significant impact on our cultural values, customary activities, and commercial fishing interests. In some cases, the new rules may impose additional restrictions and regulations on commercial fishing operations, which could potentially increase costs and reduce profitability. This will have a negative impact on the livelihoods of our whānau who depend on commercial fishing. The new rules will potentially restrict access to certain areas and limit the ability of Te Ātiawa people to engage in traditional activities such as gathering kaimoana. This would have a negative impact on Te Ātiawa culture and way of life. We urge the decision-makers to consider their responsibilities under Part 2 of the RMA and the potential negative consequences of the proposed variation and to work with Te Ātiawa Trust to understand cultural effects of the proposed Variation through a further information in the form of a CEA to assess the true impact on cultural values of Te Ātiawa as mana whenua.
63		Alan Riwaka	Whole variation	It is extremely important that the Marlborough District Council consults with Te Ātiawa over any plans associated with the sounds. I also submit that there has been insufficient time provided in consulting on a such as important issues.

8. Variation 3 – Heritage Resource - Meretoto/Ship Cove – Summary of Decisions

(Clr Hope) (Report prepared by Louise Walker)

M100-11-08

Purpose of Report

1. To determine whether late submissions to Variation 3: Heritage Resource - Meretoto/Ship Cove are accepted.
2. To adopt a summary of decisions requested in submissions to Variation 3.
3. To approve the public notification of the summary of decisions requested.

Executive Summary

4. Submissions on Variation 3 to the PMP closed on 11 April 2023. Council is now required to summarise the decisions being sought through submissions and to publicly notify the availability of the summary. The public notification also commences the period for further submissions to be made on submissions. To progress the variation, Council needs to adopt the summary of decisions and approve its public notification.
5. In addition, two submissions were received after the submission period had closed. Council must consider whether to accept these submissions based on the matters set out in Section 37 of the RMA.

RECOMMENDATIONS

That Council:

1. **Accept the late submissions from Te Ātiawa o Te Waka a Māui Trust and Alan Riwaka.**
 2. **Adopt the summary of decisions requested in submissions, as set out in Attachment 8.1.**
 3. **Publicly notify the summary of decisions, as soon as practicable, in the Marlborough Express, Blenheim Sun, Nelson Evening Mail, The Post and Christchurch Press.**
-

Background/Context

6. Heritage New Zealand Pouhere Taonga (HNZPT) entered the Meretoto/Ship Cove and Motuara Island site into the New Zealand Heritage List/Rārangi Kōrero as a 'Historic Place Category 1' (List number 9900). The Category 1 type listing identifies sites as being of special or outstanding historical or cultural significance or value. The area is also the location of another HNZPT listing (List number 9780), identifying this site as Wahi Tupuna/Tipuna.
7. Once included in 'The List' it triggers provisions in the PMP to consider the site for adoption into Appendix 13: Significant Heritage Resource and Sites and Places of Significance to Marlborough's Tangata Whenua Iwi and the inclusion of the spatial extent of the site in Volume 4 – Maps. By including the site in the PMP, the protective provisions in the plan for heritage resources would be applied. The variation does not propose to amend those existing provisions.
8. On 24 November 2022, at a meeting of the Environment and Planning Committee, the variation content, which proposes to amend the PMP, was received and adopted. On 9 March 2023, the variation was publicly notified. Six submissions were received on the variation. Of those, two submitters provided their submissions subsequent to the close off date for submissions of 11 April 2023.
9. The process for variations to a plan are specified in Schedule 1 of the Resource Management Act 1991 (RMA). Once submissions are received, Council is required to summarise the decisions being sought and then to publicly notify the availability of the summary. This notification also commences the further submission process.

Assessment/Analysis

Late submissions

10. The next step in the Schedule 1 process for this variation is to publicly notify a summary of decisions requested in submissions. The summary is provided in Attachment 8.1. It comprises all submissions lodged, including those received late. The late submissions are set out below:

- d) Te Ātiawa o Te Waka a Māui Trust – received on 28 April 2023 (12 working days late). The reason provided for the delay in lodging the submission was:

Te Ātiawa Trust acknowledges that this submission on Variation 3 of the pMEP is late. We therefore request an extension for the submission of Variation 3 of the pMEP. Te Ātiawa Trust informed Council's Policy Team of the fact that an extension would be sought soon after the variations were notified. Due to the level of interest from our whānau, competing priorities, other variations being notified concurrently, and public holidays, we were unable to complete the work within the prescribed deadline.

- e) Alan Riwaka – received on 2 May 2023 (13 working days late). The reason provided for the delay in lodging the submission was:

I apologise for the lateness of this submission owing to other significant matters beyond my control. More specifically, pressures in the Environment Court have until 28th April prevented me from responding until now. I can provide evidence in support of the Environment Court and my leadership role in leading Iwi arguments against the proposed Auckland Landfill.

11. The Council must decide whether to accept the late submissions. Council may waive a failure to comply with the time period for lodging a submission under Section 37 of the RMA. In making its decision, Council must take into account:

- a) The interests of any person who, in its opinion, may be directly affected by the extension or waiver; and
- b) The interests of the community in achieving adequate assessment of the effects of a policy statement or plan; and
- c) The Council's duty under Section 21 to avoid unreasonable delay.

12. Both submissions were able to be incorporated into the summary of decisions without causing a delay to the process. It is therefore recommended that the late submissions be accepted.

Summary of decisions

13. A summary of decisions, as the name suggests, summarises the decisions requested by persons who have made a submission on the variation (in accordance with Clause 7(1) of Schedule 1, RMA). The submission form (Form 5), that is prescribed in the RMA for a submission, includes a section for the decision sought from the local authority. Generally, this text is used to complete the data set. In some instances additional wording is added to provide context.

14. The summary of decisions for Variation 3 is attached as Attachment 8.1. In order to progress the variation, Council is required to adopt the summary.

Public notification

15. Under the RMA, Council is required to publicly notify when the summary of decisions is made available for inspection. The summary of decisions should be publicly notified in the same newspapers as the original public notice for the variations, in this case Marlborough Express, Blenheim Sun, Nelson Evening Mail, The Post and Christchurch Press. In addition, the Council is required to serve a copy of the public notice on all persons who made submissions (in accordance with Clause 7(2) of Schedule 1, RMA).

16. At notification, a hard copy of the summary of decisions will be made available for viewing at Council's Blenheim Office, the Marlborough Library, and Council's Picton Office/Picton Library. In addition, the summary will also be made available via Council's website.

17. On notification of the summary of decisions, there is then an opportunity for the following persons to make further submissions (in accordance with Clause 8 of the First Schedule of the RMA 1991):
 - a) Any person representing a relevant aspect of the public interest; or
 - b) Any person that has an interest in the variations greater than the interest that the general public has; or
 - c) The Council.
18. Further submissions must be limited to a matter either in support of or in opposition to a submission.
19. The period for making further submissions cannot exceed 10 working days, as set out in Clause 7(1)(c) of Schedule 1, RMA. The Council has discretion under Section 37, RMA to extend the period for making further submissions, but must take into account the matters listed in para 12 above. In this instance, an increase in the time period is not being recommended as there are no extraordinary circumstances that would negate Council's duty (Section 21) to avoid unreasonable delay.

Next steps

20. A hearing will be held to hear submissions on the variation. A report will be presented to a future committee seeking the appointment of a hearing panel for that process.

Attachment

Attachment 8.1 – Summary of Submissions

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Author	Louise Walker, Strategic Planner
Authoriser	Pere Hawes, Manager – Environmental Policy

Sub#	Organisation	Name/Contact	Summary of decision requested
1	Marlborough District Council	Louise Walker	Record omission of Rangitāne O Wairau's Marine and Coastal Area (Takutai Moana) Act 2011 application status in the Section 32 Report. Receive the 'Meretoto & Motuara Heritage Report' from Ngāti Apa ki te Rā Tō, Ngāti Kuia and Rangitāne o Wairau.
2		Eric Jorgensen	I SUPPORT the S32 Report finding that the preferred options of those presented is OPTION 4. The provision is that through the submission process Tangata Whenua lwi do not find that this option is unacceptable in that it unreasonably restricts their ability to undertake their customary practices as provided for through Te Tiriti, MACA and the RMA itself.
3	Minister of Conservation	Murray Brass	I seek the following decision from the Council: a. Approve the Variation as notified. The decision sought in this submission is required to ensure that the Variation: a. Is consistent with the Heritage New Zealand Pouhere Taonga List; b. Gives effect to the New Zealand Coastal Policy Statement 2010; c. Recognises and provides for the matters of national importance listed in section 6 of the Act and to has particular regard to the other matters in section 7 of the Act; and d. Promotes the sustainable management of natural and physical resources.
4		Roger McClimont	I support the option four. Places like Ships Cove need to remain as they are forever.
5	Te Ātiawa o Te Waka a Māui Trust	Sylvie Filipo	We support stricter measures in recognising and protecting wāhi tapu and areas of significance to tangata whenua. We would like to see more specific requirements for developers to engage with tangata whenua and to consider the cultural, social, and environmental impacts of their proposals. We also believe that there should be more emphasis on avoiding adverse effects, rather than simply managing them. The people of Te Ātiawa are kaitiaki within the Rohe and carry a responsibility for ensuring that the mauri or essential life principle of the natural world is vibrant. Overall, we support the Council's efforts to strengthen the protection of Meretoto/Ships Cove and Motuara through the proposed Variation 3. However, we believe that there is room for improvement to ensure the necessary level of protection for the environment, cultural heritage, and the interests of tangata whenua. We look forward to continuing to work with the Council to achieve our shared goals of protecting and preserving sites and areas of significance to Māori.
6	Alan Riwaka	Whole variation	Meretoto and Motuara are places of significance to Te Ātiawa and should be managed accordingly. It is extremely important that the Marlborough District Council consults with Te Ātiawa over any plans associated with the sounds. It is extremely important that the Marlborough District Council consults with Te Ātiawa over any plans associated with the sounds. I also submit that there has been insufficient time provided in consulting on a such as important issues.

9. Decision to Conduct Business with the Public Excluded

That the public be excluded from the following parts of the proceedings of this meeting, namely:

- Confirmation of Public Excluded Minutes
- Committee Reports (Public Excluded Sections)
- Flaxbourne Irrigation

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for the passing of this resolution
Minutes and Committee Reports	As set out in the Minutes and Reports	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under Section 7 of the Local Government Official Information and Meetings Act 1987.
Flaxbourne Irrigation	To enable the Council, as holder of the information, to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) as provided for under Section 7(2)(i).	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under Section 7 of the Local Government Official Information and Meetings Act 1987.