

13. Port Zone

Note:

Vegetation clearance, earthworks or land disturbance within, or within a 10 m setback from a natural wetland is managed under Part 3 Subpart 1 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020, except where prohibited by this plan.

Note:

Natural wetland has the meaning given by the National Policy Statement for Freshwater Management and includes, but is not limited to, Significant Wetlands.

Commented [1]: NES-FW s44A(5)

13.1. Permitted Activities

Unless expressly limited elsewhere by a rule in the Marlborough Environment Plan (the Plan), the following activities shall be permitted without resource consent where they comply with the applicable standards in 13.2 and 13.3:

Commented [2]: WITHDRAWN
Port Marlborough New Zealand Limited
ENV-2020-CHC-49
Add new rules and standards as per additions to 14.3 to provide for manual scraping and wet sanding of anti-foul paint for purpose of removal, and any associated discharge to air
By memorandum dated 28 May 2021

[C]

13.1.1. Shipping activities, as follows: movement and other activities associated with the berthing and departure of ships, ship anchorage, ship docking and berthage, and mooring activities (except swing moorings).

[C]

13.1.2. Use of surface water by a ship.

[C, D]

13.1.3. Cargo handling, the storage of cargo, or the loading and unloading of a ship.

[D]

13.1.4. Processing of cargo that is delivered to, or despatched from, the Port by ship.

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[C, D]

13.1.5. Passenger terminal for the embarking, disembarking and the transit of passengers from ships, including passenger administration, ticketing facilities for tourist and transport activities, vehicle rental operations, retail activities associated with passenger transit and café's.

[D]

13.1.6. Port engineering.

[C, D]

13.1.7. Establishment and operation of a marine fuel facility.

[D]

13.1.8. Truck fuel facility.

[C, D]

13.1.9. Border control or a quarantine activity.

[D]

13.1.10. Maintenance, storage, servicing or repair of equipment associated with marine farming or commercial fishing.

[D]

13.1.11. Manual scraping of an anti-foul paint coating or bio-foul waste from a ship.

[D]

13.1.12. Maritime education or maritime research activity.

[D]

13.1.13. Food Kiosk.

[D]

13.1.13A. Port administration activity.

[D]

13.1.14. Living accommodation facility for port staff.

[C]

13.1.15. Maintenance, repair or replacement and use of a building or structure in the coastal marine area, and for Permitted Activity purposes, the construction, use, maintenance, repair or replacement of a building or structure on existing wharves.

[C, D]

13.1.16. Removal or demolition of a building or structure.

[C, D]

13.1.17. Cable or line on an existing lawfully established structure, where the cable or line is securely fixed and taut against the structure.

[C, D]

13.1.18. Marine navigational aid (including lighting), and any supporting structure.

[C]

13.1.19. Replacement of a submarine or suspended cable or line.

[C]

13.1.20. Removal of submarine or suspended cable or line.

[C]

13.1.21. Temporary structure for scientific monitoring purposes or temporary equipment for scientific monitoring purposes.

[D]

13.1.22. Transportation activity including the construction of a road, right-of-way or path, the construction of a railway, vehicle or trailer parking, manoeuvring and transit, railway activity, transit and maintenance, bus station activity or vehicle rental operations.

[C]

13.1.23. Coastal recreation.

[R, D]

13.1.24. Geotechnical bore drilling for the purposes of investigation of sub-surface conditions.

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[C]

13.1.25. Dredging and associated disturbance to the foreshore and seabed, to maintain water depth levels necessary for ship berthage and manoeuvring.

[C]

13.1.26. Dredging, and associated disturbance to the foreshore and seabed, within the Port Zone at Havelock.

[C]

13.1.27. Clearance of sand, shell, shingle or other natural material from a river mouth for flood mitigation.

[C]

13.1.28. Clearance of sand, shell, shingle or other natural material from a stormwater outfall pipeline, drain or culvert.

[R, D]

13.1.29. Excavation.

[R, D]

13.1.30. Filling of land with clean fill.

[R, D]

13.1.31. Non-indigenous vegetation clearance.

[R, D]

13.1.32. Indigenous vegetation clearance.

[C]

13.1.33. Marine oil spill clean-up activity and the associated release of oil dispersants.

[C]

13.1.34. Take and use of coastal water.

[R]

13.1.35. Discharge of contaminants to air arising from the burning of materials for any of the following purposes:

- (a) training people to put out fires;
- (b) creating special smoke and fire effects for the purposes of producing films;
- (c) fireworks display or other temporary event involving the use of fireworks.

[R]

13.1.36. Discharge of any contaminants to air that is not specifically provided for by any other rule, arising from:

- (a) discharge of heat to air;
- (b) discharge of energy to air, including release of energy from sources of electromagnetic radiation, including a radio transmitter, television or cell phone; or release of x-rays from a radioactive source;
- (c) discharges for the purposes of ventilation or vapour displacements.

Commented [5]: Environmental Defence Society
ENV-2020-CHC-67
(Updated 6/7/20)

Commented [6]: The Minister of Defence
ENV-2020-CHC-76
By consent order dated 25 July 2022

[R]

13.1.37. Discharge of contaminants to air from the combustion of fuel (i.e. external combustion).

[R]

13.1.38. Discharge of contaminants to air from combustion within a stationary internal combustion engine (i.e. internal combustion).

[R]

13.1.39. Discharge of contaminants to air from the spray application of paint or adhesive coating materials of surfaces not within a spray booth, other than a road.

[R]

13.1.40. Discharge of contaminants to air from the application of coating materials (including paints and powders) through spray application undertaken within an enclosed booth.

[R]

13.1.41. Discharge of contaminants to air from the burning of solid fuel in an enclosed pellet burner.

[R]

13.1.42. Discharge of contaminants to air from the burning of solid fuel in an indoor open fire.

[R]

13.1.43. Discharge of contaminants to air from the burning of solid fuel in a small scale solid fuel burning appliance.

[R]

13.1.44. Discharge of contaminants to air from the production of fibreglass and other composite materials or from the production of plastic products and plastic moulding operations.

[R]

13.1.45. Discharge of contaminants to air from water blasting or from dry abrasive blasting, other than from the use of a moveable source.

[C]

13.1.46. Occupation of the coastal marine area associated with any permitted activity except Coastal Recreation.

[C]

13.1.47. Marina administration activity (Havelock Port only).

[C]

13.1.48 Commercial ship brokering, charter boat hire services, chandlery and sail making services and retail associated with these permitted activities (Havelock Port only).

[C]

13.1.49 Commercial boat related tourist activity or a tourist operator service (Havelock Port only).

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[C]

13.1.50 Use of a clubroom for a marine recreation group (Havelock Port only).

[C]

13.1.51 In-water cleaning of bio-fouling of ships, moveable structures or navigational aids and associated discharge of contaminants and biological material.

[R]

13.1.52 Discharge of dust.

Commented [8]: WITHDRAWN
 Port Marlborough New Zealand Limited
 ENV-2020-CHC-49
 New rule: to enable commercial activities ancillary to marina activities
 By memorandum dated 28 May 2021

13.2. Standards that apply to all permitted activities

13.2.1. Construction, use, maintenance, repair, replacement or extension of a building or structure on land above mean high water springs or on an existing wharf, to be used for a permitted activity.

- 13.2.1.1. The maximum height of a light tower, crane, lifting device, mast elevator, machinery room, conveyor belt, linkspan or gangway, flagpole and antenna, must not exceed 35m.
- 13.2.1.2. The maximum height of silos existing at 9 June 2016 and located on Lot 1 DP 4166, Lot 1 DP 7579 and Lot 1 DP 4973 must not exceed 35m.
- 13.2.1.3. Notwithstanding Standards 13.2.1.1 and 13.2.1.2, the maximum height of a building or structure on land above mean high water springs must not exceed 12m above natural ground level or the ground level established by reclamation.
- 13.2.1.4. The maximum height of a building or structure on a wharf must not exceed 10m.
- 13.2.1.5. The minimum setback of a building or structure to a public road must be 3m.
- 13.2.1.6. The minimum setback of a building or structure to any land zoned Urban Residential 1, Urban Residential 2 (including Greenfields) or Urban Residential 3, must be 6m.
- 13.2.1.7. The land within the minimum building setbacks to any land zoned Urban Residential 1, Urban Residential 2 (including Greenfields) or Urban Residential 3, must not be used for port operations (including motor vehicle parking), cargo handling or a cargo containment area.
- 13.2.1.8. The minimum setback of a building or structure to the boundary of a Zone not specified in 13.2.1.6, except the Coastal Marine Zone, must be 3m.
- 13.2.1.9. A building or structure must not be sited within 20m of a Riparian Natural Character Management Area.

13.2.2. Disturbance of the foreshore or seabed.

- 13.2.2.1. All adverse effects arising from disturbance of the foreshore or seabed must be able to be remedied by natural processes within 7 days of the disturbance.
- 13.2.2.2. The disturbance must be undertaken in a manner which minimises water turbidity.
- 13.2.2.3. The disturbance must not adversely affect navigational safety.

- 13.2.2.4. There must be no contaminants released from equipment being used for the disturbance.
- 13.2.2.5. All equipment must be removed from the coastal marine area on completion of the operation.

13.2.3. Noise.

- 13.2.3.1. In Picton and Shakespeare Bay, an activity must be conducted to ensure that noise from the Port Zone does not exceed the following noise limits:

Location	Day-night (Long term)	Night-time (Short term)
At any point on land beyond the Inner Noise Control Boundary.	65dBA L _{dn} (5 days)	60dB L _{Aeq} (9 hours)
	68dBA L _{dn} (1 day)	65dB L _{Aeq} (15 min) 85dB L _{AFMax}

- 13.2.3.2. In Havelock, an activity must be conducted to ensure that noise from the Port Zone does not exceed the following noise limits:

Location	Day-night (Long term)	Night-time (Short term)
At any point on land beyond the Outer Noise Control Boundary.	55dBA L _{dn} (5 days)	50dB L _{Aeq} (9 hours)
	58dBA L _{dn} (1 day)	55dB L _{Aeq} (15 min) 75dB L _{AFMax}

- 13.2.3.3. The following activities are excluded from having to comply with the noise limits:

- noise generated by a train, vehicle or vessel operation, a navigational aid, safety signal, warning device or emergency pressure relief valve;
- noise generated by emergency work arising from the need to protect life or limb or prevent loss or serious damage to property or minimise or prevent environmental damage;
- noise generated by a ship under way.

- 13.2.3.4. Noise must be measured in accordance with NZS 6801:2008 Acoustics – Measurement of Environmental Sound, and assessed in accordance with NZS 6809:1999 Acoustics - Port Noise Management and Land Use Planning).

- 13.2.3.5. Construction noise must not exceed the recommended limits in, and must be measured and assessed in accordance with, NZS 6803:1999 Acoustics – Construction Noise.

13.2.4. Use of external lighting.

- 13.2.4.1. Light spill onto any land zoned Urban Residential 1, Urban Residential 2 (including Greenfields) or Urban Residential 3 must not exceed 2.5 Lux spill (horizontal and vertical).
- 13.2.4.2. Light spill onto any land zoned other than Port Zone or Urban Residential 1, Urban Residential 2 (including Greenfields) or Urban Residential 3 must not exceed 10 Lux spill (horizontal and vertical).

- 13.2.4.3. All exterior lighting (except street lights) must be directed away from any land zoned other than Port Zone and any road.

13.2.5. Storage of waste.

- 13.2.5.1. Waste must not be stored within 6m of the boundary of any land zoned Urban Residential 1, Urban Residential 2 (including Greenfields) or Urban Residential 3.
- 13.2.5.2. Stored waste must be screened from public view.
- 13.2.5.3. Stored waste must be stored in a covered container.
- 13.2.5.4. No contaminant must be discharged from a waste storage container.

13.2.6. Odour.

- 13.2.6.1. There must be no objectionable or offensive odour to the extent that it causes an adverse effect at or beyond the legal boundary of the site.

Note:

For the purpose of this performance standard, an offensive or objectionable odour is that odour which can be detected and is considered to be offensive or objectionable by a Council officer. In determining whether an odour is offensive or objectionable, the "FIDOL" factors must be considered (the frequency; the intensity; the duration; the offensiveness (or character); and the location). For the purposes of this performance standard, the "site" comprises all that land owned or controlled by the entity undertaking the activity causing the odour.

13.2.7. Smoke.

- 13.2.8.1. The smoke must not be objectionable or offensive, as detected at or beyond the legal boundary of the area of land on which the permitted activity is occurring.

13.2.8. Dust.

- 13.2.8.1. There must be no objectionable or offensive discharge of dust to the extent that it causes an adverse effect (including on human health) at or beyond the legal boundary of the site.

Note 1:

For the purpose of this performance standard, an offensive or objectionable discharge of dust is one which can be detected and is considered to be offensive or objectionable by a Council officer. In determining whether dust is offensive or objectionable, the "FIDOL" factors must be considered (the frequency; the intensity; the duration; the offensiveness (or character); and the location). For the purposes of this performance standard, the "site" comprises all that land owned or controlled by the entity undertaking the activity causing the dust.

Note 2:

This performance standard shall not apply if the discharge of dust is authorised by an air discharge permit.

13.2.9. Particulate from any process vent or stack.

- 13.2.9.1. The particulate must not contain hazardous substances such that it causes an adverse effect (including on human health) at or beyond the legal boundary of the site.
- 13.2.9.2. The concentration of particulate discharged from any air pollution control equipment and dust collection system must not exceed 250mg/m³ at any time, corrected to 0°C, 1 atmosphere pressure, dry gas basis.

This standard does not apply to discharges to air which are subject to standards for specific permitted activities.

13.3. Standards that apply to specific permitted activities

13.3.1. Processing of cargo that is delivered to, or despatched from, the Port by a ship.

- 13.3.1.1. That activity must not result in any waste discharge.
- 13.3.1.2. The processing must not involve a connection to the municipal water supply.
- 13.3.1.3. Processing, including storage of material before or after processing, must not result in a discharge to land, air or water (including coastal water).

13.3.2. Port engineering.

- 13.3.2.1. There must be no contaminants released into the coastal marine area.

13.3.3. Truck fuel facility.

- 13.3.3.1. Accommodation must not be provided as part of the activity.

13.3.4. Manual scraping of an anti-foul paint coating or bio-foul waste from a ship.

- 13.3.4.1. All anti-foul or bio-foul waste, coating waste or other contaminant removed must be captured.
- 13.3.4.2. The waste and contaminants captured must be stored for disposal in a covered container located in a roofed area.
- 13.3.4.3. The waste must not be disposed of to the coastal marine area.
- 13.3.4.4. The activity must not result in any paint entering a waterbody (including coastal water).
- 13.3.4.5. The activity must not result in deposition of anti-foul or bio-foul material on property owned or occupied by persons other than those who carry out the activity.

13.3.5. Living accommodation facility for port staff.

- 13.3.5.1. The accommodation must be on-site and ancillary to the operations of the port.
- 13.3.5.2. The accommodation must only be provided to employees of the operator of the port.

13.3.6. Maintenance, repair or replacement and use of a building or structure in the coastal marine area.

- 13.3.6.1. In the case of replacement of a building or structure, the original building or structure must have been lawfully established.
- 13.3.6.2. There must be no increase in the height, size or scale of the building or structure.
- 13.3.6.3. The effects of the activity occurring in or on the replacement building or structure must be the same intensity and scale as those occurring in or on the building or structure prior to its replacement.
- 13.3.6.4. There must be no change in the location of the building or structure.

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By consent order dated 31 January 2023

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By consent order dated 31 January 2023

13.3.7. Removal or demolition of a building or structure.

- 13.3.7.1. Where the building or structure is in the coastal marine area, it must be removed in its entirety, including piles and any subsurface structures.
- 13.3.7.2. Material removed or demolished from a building or structure must not be disposed of in the coastal marine area.
- 13.3.7.3. Foreshore or seabed material must not be removed from the coastal marine area.

13.3.8. Marine navigational aid (including lighting), and any supporting structure.

- 13.3.8.1. The erection or placement of a marine navigational aid (including lighting) must be carried out by, or on behalf of, Maritime New Zealand.
- 13.3.8.2. Prior to installation, the GPS mapping co-ordinates and a description of the marine navigational aid must be provided to the Harbour Master.

13.3.9. Replacement of a submarine or suspended cable or line.

- 13.3.9.1. A cable or line must not be removed except where it traverses through a Category A or B Ecologically Significant Marine Site.
- 13.3.9.2. A cable or line that is being replaced must be removed from the coastal marine area.
- 13.3.9.3. A replacement cable or line must be laid or suspended within a horizontal distance of no more than two times the depth of water from the cable or line which is being replaced.
- 13.3.9.4. A replacement cable or line must be put in place within 1 month of the removal of the original cable or line.
- 13.3.9.5. A cable or line must be laid or suspended by, or on behalf of, a Network Utility Operator.
- 13.3.9.6. Prior to installation, the Network Utility Operator must provide location co-ordinates and details of a replacement cable or line to the Council.

13.3.10. Temporary structure for scientific monitoring purposes or temporary equipment for scientific monitoring purposes.

- 13.3.10.1. The structure or equipment must not be located within the Port Zone for longer than 3 months.
- 13.3.10.2. The structure or equipment must not exceed 2m in length, 2m in width and 2.5m in height above water level.
- 13.3.10.3. Prior to installation, the GPS mapping co-ordinates and a description of the structure or equipment must be provided to the Harbour Master.
- 13.3.10.4. The structure or equipment must not adversely affect navigational safety.
- 13.3.10.5. There must be no contaminants released as a result of the activity, or from equipment being used for the activity.

13.3.11. Coastal recreation.

- 13.3.11.1. The activity must not involve occupation of the coastal marine area.

13.3.12. Geotechnical bore drilling for the purposes of investigation of sub-surface conditions.

- 13.3.12.1. The bore must be drilled by a Recognised Professional.

13.3.12.2. A copy of the bore log, including a grid reference identifying the bore location, must be supplied to the Council in a suitable electronic format within 20 working days of drilling of the bore.

13.3.12.3. On completion of the geotechnical investigation, the bore must be sealed or capped to prevent any potential contamination of groundwater.

13.3.13. Dredging and associated disturbance to the foreshore and seabed, to maintain water depth levels necessary for ship berthage and manoeuvring.

13.3.13.1. At least 10 working days prior to the commencement of activity, Maritime New Zealand and the Council must be advised in writing of the nature and duration of the intended works.

13.3.13.2. The depth of any seabed disturbance must be limited to the amount necessary to maintain water depth levels.

13.3.13.3. Dredged material must not be deposited within the coastal marine area.

13.3.13.4. The activity must not adversely affect navigational safety.

13.3.13.5. There must be no contaminants released from equipment being used for the activity.

13.3.14. Dredging, and associated disturbance to the foreshore and seabed, within the Port Zone at Havelock.

13.3.14.1. No more than 50,000m³ of foreshore and seabed material, including but not limited to sand, shell or shingle (except live vegetation), must be removed by any person within a calendar year.

13.3.14.2. The purpose of the dredging must be to maintain the water depth level of a navigational channel.

13.3.14.3. At least 10 working days prior to the commencement of dredging activity, Maritime New Zealand and the Council must be advised in writing of the nature and duration of the intended works.

13.3.14.4. The depth of any seabed disturbance must be limited to the amount necessary to maintain water depth levels.

13.3.14.5. Dredged material must not be deposited within the coastal marine area.

13.3.14.6. The activity must not adversely affect navigational safety.

13.3.14.7. There must be no contaminants released from equipment being used for the activity.

13.3.15. Clearance of sand, shell, shingle or other natural material from a river mouth for flood mitigation.

13.3.15.1. The clearance must be carried out by, or on behalf of, the Marlborough District Council.

13.3.15.2. Disturbance must be limited to the amount necessary to clear the river mouth for flood mitigation purposes.

13.3.15.3. All equipment must be removed from the site on completion of the clearance.

13.3.15.4. The best practicable option must be adopted to avoid significant sedimentation.

13.3.15.5. The clearance must not cause a safety hazard to other users of the river mouth.

- 13.3.15.6. There must be no contaminants released from equipment being used for the activity.
- 13.3.15.7. Refuelling of equipment must not take place on any area of foreshore or seabed.
- 13.3.15.8. Fish passage must not be impeded.

13.3.16. Clearance of sand, shell, shingle or other natural material from a stormwater outfall pipeline, drain or culvert.

- 13.3.16.1. Disturbance must be undertaken by non-mechanical means, or be undertaken by, or on behalf of, the Marlborough District Council.
- 13.3.16.2. Disturbance must be limited to the amount necessary to clear the outfall, pipeline or culvert for flood mitigation purposes.
- 13.3.16.3. All equipment must be removed from the site on completion of the clearance.
- 13.3.16.4. The best practicable option must be adopted to avoid significant sedimentation.
- 13.3.16.5. The clearance must not cause a safety hazard to other users of the area.
- 13.3.16.6. There must be no contaminants released from equipment being used for the clearance.
- 13.3.16.7. Fish passage must not be impeded.
- 13.3.16.8. Refuelling of equipment must not take place on any area of foreshore or seabed.

13.3.17. Excavation.

- 13.3.17.1. No excavation in excess of 1000m³ must occur on any land with a slope greater than 20° within any 24 month period.
- 13.3.17.2. No excavation may occur on any land with a slope greater than 35°.
- 13.3.17.3. Excavation must not be in, or within 8m of, a river (except an ephemeral river when not flowing) or the coastal marine area.
- 13.3.17.4. Excavation in excess of 500m³ per Record of Title must not occur within the Marlborough Sounds Outstanding Natural Feature and Landscape within any 12 month period.
- 13.3.17.5. Wheeled or tracked machinery must not be operated in, or within 8m of, a river (except an ephemeral river or intermittently flowing river, when not flowing) Significant Wetland or the coastal marine area.
- 13.3.17.6. Batters must be designed and constructed to ensure they are stable and remain effective after completion of the excavation.
- 13.3.17.7. Water control measures and sediment control measures must be designed, constructed and maintained in an area disturbed by excavation, such that the area is stable and the measures remain effective after completion of the excavation. The diameter of a culvert used to drain excavation must not be less than 300mm.
- 13.3.17.8. Excavation must not be within a Level 2 Flood Hazard Area.
- 13.3.17.9. Excavation must not cause water to enter onto any adjacent land under different ownership.

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13.3.18. Filling of land with clean fill.

- 13.3.18.1. No filling in excess of 1000m³ must occur within any 24 month period.
- 13.3.18.2. Filling in excess of 500m³ per Record of Title must not occur within the Marlborough Sounds Outstanding Natural Feature and Landscape within any 12 month period.
- 13.3.18.3. Fill must not be placed over woody vegetation on any land with a slope greater than 10°.
- 13.3.18.4. A filled area must be designed, constructed and maintained to ensure it is stable and remains effective after completion of filling.
- 13.3.18.5. Water control measures and sediment control measures must be designed, constructed and maintained in a fill area, such that the area is stable and the measures remain effective after completion of the filling. The diameter of a culvert used to drain a fill area must not be less than 300mm.
- 13.3.18.6. When filling has been completed, the filled area must be covered with at least 200mm of soil, and sown down with a suitable vegetative cover or other means to achieve a rapid vegetative.
- 13.3.18.7. Filling must not be in, or within 8m of, a river (except an ephemeral river when not flowing) or the coastal marine area.
- 13.3.18.8. Filling must not be within a Level 2 Flood Hazard Area.
- 13.3.18.9. Filling must not cause water to enter onto any adjacent land under different ownership.

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13.3.19. Non-indigenous vegetation clearance.

Note:

Standards 13.3.19.2, 13.3.19.7, 13.3.19.8 do not apply in the case of clearance of species listed in the Biosecurity New Zealand Register of Unwanted Organisms or the Marlborough Regional Pest Management Plan.

Commented [13]: NES-FW s44A(5)

- 13.3.19.1. Where clearance is by mechanical means, blading or root-raking by a bulldozer must not be used on slopes greater than 20°.
- 13.3.19.2. Vegetation must not be removed by fire or mechanical means within 8m of a river (except an ephemeral river, or intermittently flowing river when not flowing) or the coastal marine area.
- 13.3.19.3. [deleted]
- 13.3.19.4. All trees must be felled away from a river (except an ephemeral river, or intermittently flowing river when not flowing), Significant Wetland or the coastal marine area.
- 13.3.19.5. Notwithstanding 13.3.19.4, where trees are leaning over a river, lake, Significant Wetland or coastal marine area, they must be felled in accordance with industry safety practices.
- 13.3.19.6. Except for trees felled in accordance with 13.3.19.5, no tree or log may be dragged through the bed of a river (except an ephemeral river or intermittently flowing river, when not flowing), or a Significant Wetland or the coastal marine area.
- 13.3.19.7. Wheeled or tracked machinery must not be operated in, or within 8m of:
 - (a) any river (except an ephemeral river or intermittently flowing river, when not flowing);

Commented [14]: NES-FW s44A(5)

- (b) a Significant Wetland except where the wetland is fenced in accordance with the wetland boundaries mapped in the Plan, in which case wheeled or tracked machinery may be operated up to the fenced boundary; or
 - (c) the coastal marine area.
- 13.3.19.8. On completion of a vegetation clearance operation, a suitable vegetative cover that will mitigate soil loss, is to be restored on the site so that, within 24 months the amount of bare ground is to be no more than 20% greater than prior to the vegetation clearance taking place.
- 13.3.19.9. The depth of topsoil removed must not exceed more than 20mm over more than 15% of any vegetation clearance site.
- 13.3.19.10. Woody material greater than 100mm in diameter or soil debris must:
- (a) not be left within 8m of, or deposited in, a river (except an ephemeral river or intermittently flowing river, when not flowing), Significant Wetland or the coastal marine area;
 - (b) not be left in a position where it can enter, or be carried into, a river (except an ephemeral river), Significant Wetland or the coastal marine area;
 - (c) be stored on stable ground;
 - (d) be managed to avoid accumulation to levels that could cause erosion or instability of the land.
- 13.3.19.11. Vegetation clearance must not cause any conspicuous change in the colour or natural clarity of a flowing river after reasonable mixing, or a Significant Wetland, lake or the coastal marine area.

13.3.20. Indigenous vegetation clearance.

- 13.3.20.1. Indigenous vegetation clearance must comply with Standards 13.3.19.1 to 13.3.19.11 (inclusive).
- 13.3.20.2. The clearance of indigenous vegetation can only occur in the following circumstances:
- (a) where the clearance is of indigenous vegetation under woodlot forest or shelter belt;
 - (b) [deleted];
 - (c) [deleted];
 - (d) where the clearance is associated with the maintenance of existing signs, roads, forestry roads, harvesting tracks farm tracks, fence lines, cycling tracks or walking tracks;
 - (di) where the clearance is withing curtilage of a dwelling;
 - (e) where the clearance is associated with operation and maintenance of the: National Grid, existing network utility operations, and existing electricity distribution activities
 - (ei) where the clearance is associated with the maintenance of existing hydro-electricity generation activities connected to the National Grid or distribution network;

Commented [15]: Environmental Defence Society
ENV-2020-CHC-67
(Updated 6/7/20)

Commented [16]: NESPF Alignment. Clause 16.

- (f) where the clearance is associated with the maintenance of existing fire breaks
- (g) where the clearance is within existing crop or pasture and is for the purpose of cultivation or pasture maintenance where the indigenous vegetation has grown from a previous lawful clearance carried out under the RMA and the indigenous vegetation is less than 10 years in age;
- (h) where the clearance is associated with the maintenance of an archaeological site where authority has been obtained from Heritage New Zealand Pouhere Taonga.
- (i) where the clearance associated with the maintenance of existing:
 - (i) farm building where the clearance is no further than 2 metres from the exterior wall of the existing building; or
 - (ii) farm water supply pipelines, where the total width of clearance is no greater than 2 metres at any point.
- (j) Clearance of indigenous vegetation where it has been planted as part of a domestic or public garden; or has been planted for amenity purposes; or planted as a shelterbelt;
- (k) Clearance of indigenous vegetation that is a danger to human life;
- (l) Clearance of indigenous vegetation that is a material risk to structures or utilities;
- (m) Clearance of indigenous vegetation that cannot reasonably be avoided in the course of destroying pests required by any Regional Pest Management Plan made under the Biosecurity Act 1993, or as a result of a biosecurity response activity under the direction of an Authorised Person appointed in accordance with Section 103 of the Biosecurity Act 1993.

13.3.20.3. [deleted].

13.3.20.4. Clearance of indigenous vegetation permitted by 13.3.20.2(g) within the coastal environment must not include the following habitats/species:

- (a) duneland vegetation;
- (b) coastal grassland;
- (c) coastal vegetation dominated by (making up >50% of the canopy cover) *Phormium species*;
- (d) coastal broadleaved shrubland;
- (e) coastal small-leaved shrubland;
- (f) coastal salt turf;
- (g) coastal speargrass herbfield.

13.3.20.5. [deleted].

13.3.20.6. [deleted]:

- (a) [deleted];

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Port Marlborough New Zealand Limited
ENV-2020-CHC-49
By memorandum dated 28 May 2021

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Port Marlborough New Zealand Limited
ENV-2020-CHC-49
By memorandum dated 6 April 2022

(b) [deleted].

Commented [20]: By consent order dated 24 May 2023

13.3.21. Marine oil spill clean-up activity and the associated release of oil dispersants.

13.3.21.1. Oil spill dispersants must be used by a person described by Section 467 of the Maritime Transport Act 1994.

13.3.22. Take and use of coastal water.

13.3.22.1. The take of coastal water must not change sediment movement patterns or water quality.

13.3.22.2. The take of coastal water must not be from within the following Ecologically Significant Marine Sites:

- (a) Havelock-Mahakipawa Estuaries – No. 3.20;
- (b) Shakespeare Bay – No. 4.10.

13.3.23. Discharge of contaminants to air arising from the burning of materials for any of the following purposes:

- (a) training people to put out fires;
- (b) creating special smoke and fire effects for the purposes of producing films;
- (c) fireworks display or other temporary event involving the use of fireworks.

13.3.23.1. The Council must be notified at least 5 working days prior to the burning activity commencing.

13.3.23.2. Any discharges for purposes of training people to put out fires must take place under the control of Fire and Emergency New Zealand, the New Zealand Defence Force or any other nationally recognised agency authorised to undertake firefighting research or firefighting activities.

13.3.23A. Discharge of any contaminants to air that is not specifically provided for by any other rule, arising from:

- (a) discharge of heat to air;
- (b) discharge of energy to air, including release of energy from sources of electromagnetic radiation, including a radio transmitter, television or cell phone; or release of x-rays from a radioactive source;
- (c) discharges for the purposes of ventilation or vapour displacements.

13.3.23A.1. A discharge velocity that exceeds 4.3m/s through an obstacle limitation surface of an aerodrome, or at a height over 60m above ground level, must be advised to the Director of Civil Aviation Authority in accordance with Civil Aviation Authority Rule 77.13.

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ENV-2020-CHC-76
By consent order dated 25 July 2022

13.3.24. Discharge of contaminants to air from the combustion of fuel (i.e. external combustion).

13.3.24.1. The net energy output capacity of the fuel burning device must not exceed:

- (a) 10MW for natural or liquefied petroleum gas;
- (b) 40kW for untreated wood;
- (c) 100kW for coal;
- (d) 200kW for light fuel oil or re-refined oil;

- (e) 1.0MW for pellet fuel when burnt in a custom designed pellet boiler;
- (f) 400kW for pellet fuel when burnt in a standard boiler converted for pellet fuel use;
- (g) 10MW for diesel (external combustion);
- (h) 2MW for kerosene.

13.3.24.2. The limits in Standard 13.3.24.1 for any fuel type apply to the net energy output capacity from all the devices burning fuel on the site.

13.3.24.3. The fuel must be burned using fuel burning equipment, and the discharge must be from a chimney or exhaust structure designed so that the emission is effectively dispersed upwards.

13.3.24.4. The opacity of the discharge when measured at the point of entry to the atmosphere must not exceed 20%, except that a discharge in excess of this is allowed for a period of not more than 2 minutes continuously, or for an aggregate of 4 minutes, in any 60 minute period.

13.3.24.5. The fuel burning equipment must be maintained in accordance with the manufacturer's specifications at least once every year by a person competent in the maintenance of that equipment. A log recording all maintenance must be made available to the Council on request.

13.3.24.6. The stack height must comply with the higher of:

- (a) the requirements in Appendix 8 – Schedule 5; or
- (b) 2.5m higher than the apex of any building, tree, slope or structure within a horizontal radius of 2.5 times the stack height.

13.3.24.7. The sulphur content of any coal burnt must be less than 2%.

13.3.24.8. Material listed in Rule 13.6.4 (b) to (m) must not be burnt.

13.3.25. Discharge of contaminants to air from combustion within a stationary internal combustion engine (i.e. internal combustion).

13.3.25.1. The fuel must be gas, LPG, petrol, diesel, vegetable oils or alcohol.

13.3.25.2. Fuel containing sulphur at levels greater than 10ppm (or 0.001%) by weight must not be burned.

13.3.25.3. The net energy output of the device must not exceed 400kW, this limit applies to the total heat output from a site.

13.3.25.4. If the net energy output of the device is between 30kW and 400kW –

- (a) the engine must not be operated for a total of greater than 5 hours in any 24-hour period;
- (b) if the engine is in a fixed location, the stack must comply with the requirements of Appendix 8 – Schedule 4.

Exception: The above standards 13.3.25.3 and 13.3.25.4 do not apply to combustion to provide emergency power generation provided for within the General Rules in Volume 2, Chapter 2.

13.3.26. Discharge of contaminants to air from the spray application of paint or adhesive coating materials of surfaces not within a spray booth, other than a road.

13.3.26.1. There must not be more than 5 litres of coating material applied per hour and not more than 20 litres of coating material applied per month.

Commented [22]: Clause 16

- 13.3.26.2. Where there is a sensitive receptor on another property within 100m of where the spray coating is to occur, there must not be more than 0.5 litre of coating material applied per hour and not more than 5 litres of coating material applied per month.
- 13.3.26.3. Spray coating must not occur on surfaces of fixed structures that can practicably be dismantled and transported to a spray booth.
- 13.3.26.4. The coating material must not contain di-isocyanates or organic plasticisers.
- 13.3.26.5. The discharge must occur at least 10m from any sensitive receptor beyond the boundary of the property where spray coating is undertaken.
- 13.3.26.6. There must be no dispersal or deposition of particles beyond the boundary of the property where the discharge originates.
- 13.3.27. Discharge of contaminants to air from the application of coating materials (including paints and powders) through spray application undertaken within an enclosed booth.**
- 13.3.27.1. Coatings that contain di-isocyanates must not be used.
- 13.3.27.2. The maximum rate of coating material sprayed at one booth must not exceed 10 litres per hour.
- 13.3.27.3. The spray booth must be fitted with an air extraction system vertically discharging all contaminants and exhaust air to an emission stack.
- 13.3.27.4. The emission stack must be a height of at least 2m above the ridgeline of the roof of any building, land or other substantial structure within a radius, from the stack, of 35m.
- 13.3.27.5. The discharge must be directed vertically into the air and must not be impeded by any obstruction above the stack which decreases the vertical efflux velocity, below that which would occur in the absence of such obstruction.
- 13.3.27.6. The discharge must be through a filtration system that removes at least 95% of particulate matter from the discharge.
- 13.3.28. Discharge of contaminants to air from the burning of solid fuel in an enclosed pellet burner.**
- 13.3.28.1. The burner must only burn fuels approved for use in the burner.
- 13.3.29. Discharge of contaminants to air from the burning of solid fuel in a small scale solid fuel burning appliance.**
- 13.3.29.1. The appliance must only burn fuels approved for use in the appliance.
- 13.3.29.2. The appliance must be operated so that all reasonable steps are taken to minimise the amount of smoke discharged.
- 13.3.30. Discharge of contaminants to air from the production of fibreglass and other composite materials or from the production of plastic products and plastic moulding operations.**
- 13.3.30.1. The fibre glassing must be undertaken inside a booth equipped with filtration, extraction and dispersion mechanisms to ensure 95% particulate removal.
- 13.3.30.2. The total amount of plastics moulded on the site must be less than 500kg per hour.

- 13.3.30.3. The total amount of fibreglass and resin used on the site must not exceed 50kg per hour.
- 13.3.30.4. The total mass of organic material discharges from the site must be less than 5kg per day.
- 13.3.30.5. Any point of discharge to air must be 2m above the highest point of the building containing the operation or any building located within a radius of 2.5 times the height of the discharge.
- 13.3.30.6. The air discharge must be vertical.

13.3.31. Discharge of contaminants to air from water blasting or from dry abrasive blasting, other than from the use of a moveable source.

- 13.3.31.1. There must be no discharge of water spray, dust or other contaminant beyond the boundary of the property.
- 13.3.31.2. Where the discharge occurs from public land there must be no discharge of water spray, dust or other contaminant beyond 50m from the discharge point or beyond the boundary of the public land, whichever is the lesser.
- 13.3.31.3. There must be no discharge of water spray, dust or other contaminant into the coastal marine area.
- 13.3.31.4. The surface to be blasted must not contain lead, zinc, arsenic, chromium, copper, mercury, asbestos, tributyl tin, thorium-based compounds, and other heavy metals including anti-foul paint containing these substances.
- 13.3.31.5. For dry abrasive blasting all items must be blasted within an abrasive blasting enclosure and the discharge must be via a filtered extraction system that removes at least 95% of particulate matter from the discharge.
- 13.3.31.6. For dry abrasive blasting the free silica content of a representative sample of the blast material must be less than 5% by weight.

13.3.32 Commercial boat related tourist activity or a tourist operator service (Havelock only).

- 13.3.32.1 The activity must not involve visitor accommodation.

13.3.33 In-water cleaning of bio-fouling of ships, moveable structures or navigational aids and associated discharge of contaminants and biological material.

- 13.3.33.1 The owner or operator of the ship, structure or navigational aid shall ascertain, and produce on request by the Council, details of the anti-foul coating used on the ship, structure or navigational aid, the planned service life as specified by the coating manufacturer, and the cleaning method recommended by the coating manufacturer.
- 13.3.33.2. The anti-foul coating on the ship, moveable structure or navigational aid shall not have exceeded its planned service life as specified by the manufacturer.
- 13.3.33.3. The cleaning method shall be undertaken in accordance with the coating manufacturer's recommendations.
- 13.3.33.4 The cleaning of microfouling and goose barnacles may occur without capture.
- 13.3.33.5 Any coverage of macrofouling cleaned (other than goose barnacles) shall be no more than light fouling, and all biological material greater than 50 microns in diameter dislodged during cleaning shall be captured and disposed of at an approved landfill.

13.3.33.6 If any person undertaking or responsible for the cleaning suspects that harmful or unusual aquatic species (including species designated as unwanted organisms or pest species under the Biosecurity Act 1993) are present on the ship, structure or navigational aid, that person shall take the following steps:

- (a) any cleaning activities commenced shall cease immediately; and
- (b) the Marlborough District Council and the Ministry for Primary Industries shall be notified without unreasonable delay; and
- (c) the cleaning may not recommence until notified by the Council to do so, or in the event a designated unwanted organism or pest species is found, notified to do so by the Ministry for Primary Industries.

For further context and guidance on anti-fouling and in-water cleaning of vessels and structures refer to the Anti-fouling and In-water Cleaning Guidelines (June 2013).

13.3.34 Discharge of contaminants to air from cement processing and handling.

- 13.3.34.1 The discharge from storage silos must be controlled using an appropriately sized filtering system maintained according to the manufacturer's instructions.
- 13.3.34.2 There should be no visible discharges of dust.
- 13.3.34.3 Cement must be delivered or discharged via a fully enclosed system.
- 13.3.34.4 Silos must either have an automated remote filling system or be fitted with a high level alarm that has both an audible and visual indicator and when the alarm is triggered it will stop the filling of the silo.
- 13.3.34.5 The discharge must not result in offensive or objectionable dust at or beyond the legal boundary of the area of land on which the activity is occurring.

13.4. Restricted Discretionary Activities

Application must be made for a Restricted Discretionary Activity for the following:

[C]

13.4.1. Construction and use of a building or structure (including the extension of an existing building or structure) and associated occupancy of the coastal marine area.

Standards and terms:

- 13.4.1.1. The building or structure (or extension thereof) must be necessary for the operational requirements of the port.

Matters over which the Council will exercise discretion:

- 13.4.1.2. Benefits likely to arise from use of the building or structure.
- 13.4.1.3. The design of the building or structure, including size and construction materials.
- 13.4.1.4. The visual appearance of the building or structure.
- 13.4.1.5. Effects on the surrounding hydrodynamic and geomorphic environment.
- 13.4.1.6. Environmental effects resulting from construction.

Commented [23]: New Zealand Transport Agency
ENV-2020-CHC-56

New restricted discretionary rule and standards in relation to noise sensitive activities (See appendix B of appeal)

13.4.1.7. The location of the building or structure, including associated effects on public access to the coastal marine area.

13.4.1.8 Effects on the cultural values of Marlborough's tangata whenua iwi.

[D]

13.4.2. Commercial activity not otherwise provided for in the Port Zone.

Matters over which the Council will exercise discretion:

13.4.2.1. The potential for reverse sensitivity effects on existing permitted activities within the Port Zone.

13.4.2.2. The extent to which the activity is an efficient use of the site given its location within the coastal environment.

13.4.2.3 Effects on the cultural values of Marlborough's tangata whenua iwi.

[C]

13.4.3. Disturbance of the foreshore and seabed associated with Rule 13.4.1, including the removal of sand, shell, shingle or other natural material, required as part of the construction and use of a building or structure that is necessary for the loading and unloading of ships associated with the operations of the port.

Standard and terms:

13.4.3.1. No more than 50,000m³ of foreshore and seabed material must be disturbed by any person within a calendar year.

13.4.3.2. Material must not be deposited within the coastal marine area.

13.4.3.3. There must be no contaminants released from equipment being used for the activity.

Matters over which the Council will exercise discretion:

13.4.3.4. Water clarity.

13.4.3.5. The quantity and nature of material to be disturbed or removed from the coastal marine area.

13.4.3.6. Effects on the surrounding hydrodynamic and geomorphic environment.

13.4.3.7. Controls on sedimentation during disturbance.

13.4.3.8. Restrictions on public access during the operation.

13.4.3.9 Effects on the cultural values of Marlborough's tangata whenua iwi.

[D]

13.4.4. Processing facility for fish, shellfish or any other marine organism, including the processing and curing of marine harvest, minerals and premises for the wholesale and retail sale of harvested products.

Matters over which the Council will exercise discretion:

13.4.4.1. Water supply.

13.4.4.2. Trade waste servicing.

13.4.4.3. Reverse sensitivity issues.

Commented [24]: WITHDRAWN
Port Marlborough New Zealand Limited
ENV-2020-CHC-49
By memorandum dated 28 May 2021

[C]

13.4.5. Reclamation of the foreshore and seabed.*Standards and terms:*

- 13.4.5.1. The reclamation must be necessary for the operation of the port.
- 13.4.5.2. The reclamation must not exceed more than 1ha in area.

Matters over which the Council will exercise discretion:

- 13.4.5.3. Benefits likely to arise from use of the reclamation.
- 13.4.5.4. The quantity and composition of material to be deposited within the coastal marine area.
- 13.4.5.5. Location of the reclamation.
- 13.4.5.6. Effects on the surrounding hydrodynamic and geomorphic environment.
- 13.4.5.7. Effects on any terrestrial or marine ecosystems.
- 13.4.5.8. Effects resulting from any increased risk of natural hazards.
- 13.4.5.9. Restrictions on public access during construction of the reclamation.
- 13.4.5.10 Effects on the cultural values of Marlborough's tangata whenua iwi.

Commented [25]: Port Marlborough New Zealand Limited
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By consent order dated 31 January 2023

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ENV-2020-CHC-49
By consent order dated 31 January 2023

[D]

13.4.6. Excavation in excess of 1000m³ on any land with a slope greater than 20° within any 24 month period.*Matters over which the Council will exercise discretion:*

- 13.4.6.1. The effects on water quality and soil conservation from the excavation.

13.5. Discretionary Activities

Application must be made for a Discretionary Activity for the following:

[C, R, D]

13.5.1. Any activity provided for as a Permitted Activity or Restricted Discretionary Activity that does not meet the applicable standards.

[C, R, D]

13.5.2. Any activity carried out for the purpose of constructing a port or any port activity within the Port Zone at Clifford Bay.

[D]

13.5.3. Any use of land not provided for as a Permitted Activity or Restricted Discretionary Activity, or limited as a Prohibited Activity.

[C]

13.5.4. Any use of the coastal marine area not provided for as a Permitted Activity or Restricted Discretionary Activity, or limited as a Prohibited Activity.

[C]

13.5.5. Any take, use, damming or diversion of coastal water not provided for as a Permitted Activity or limited as a Prohibited Activity.

[C]

13.5.6. Any discharge of contaminants into or onto land, or to air not provided for as a Permitted Activity, or limited as a Prohibited Activity.

13.6. Prohibited Activities

The following are Prohibited Activities for which no application can be made:

[C]

13.6.1. Discharge or dumping of a hazardous waste substance into or onto land and from onshore into the coastal marine area.

[C]

13.6.2. Discharge or dumping of waste and litter from onshore into the coastal marine area.

[R]

13.6.3. Discharge of contaminants to air arising from the burning in any small scale solid fuel burning appliance of any of the following materials:

- (a) wood having a moisture content of more than 25% dry weight;
- (b) wood which is painted, stained, oiled or coated;
- (c) wood treated with preservatives or impregnated with chemicals, including but not limited to, wood treated with Copper-Chrome-Arsenic, except that woodfuel burnt in a fuel burning device (external combustion) may contain incidental amounts of anti-sapstain chemicals;
- (d) pellets containing greater than 10mg/kg (dry) of copper and 0.02 w-% (dry) of chlorine;
- (e) composite wood boards containing formaldehyde or similar adhesives, including but not limited to chip board, fibreboard, particle board and laminated boards;
- (f) metals and materials containing metals including but not limited to cables;
- (g) materials containing asbestos;
- (h) material containing tar or bitumen;
- (i) all rubber, including but not limited to, rubber tyres;
- (j) synthetic material, including, but not limited to motor vehicle parts, foams, fibreglass, batteries, chemicals, paint and other surface-coating materials, or any type of plastics;
- (k) waste oil (excluding re-refined oil);
- (l) peat;
- (m) sludge from industrial processes;
- (n) animal waste (except animal waste generated on production land), medical waste, pacemakers, biomechanical devices or chemical waste.

[R]

- 13.6.4. Discharge of contaminants to air arising from the deliberate burning in the open of any of the materials in the following list, except where material is present in minor quantities and cannot be separated from the principal material being burnt, or where the discharge arises from the burning of material for training people to put out fires as provided for as a Permitted Activity or authorised by a resource consent;**
- (a) wood which is painted, stained, oiled or coated;
 - (b) wood treated with preservatives or impregnated with chemicals, including but not limited to, wood treated with Copper-Chrome-Arsenic, except that woodfuel burnt in a fuel burning device (external combustion) may contain incidental amounts of anti-sapstain chemicals;
 - (c) pellets containing greater than 10mg/kg (dry) of copper and 0.02 w-% (dry) of chlorine;
 - (d) composite wood boards containing formaldehyde or similar adhesives, including but not limited to chip board, fibreboard, particle board and laminated boards;
 - (e) metals and materials containing metals including but not limited to cables;
 - (f) materials containing asbestos;
 - (g) material containing tar or bitumen;
 - (h) all rubber, including but not limited to, rubber tyres;
 - (i) synthetic material, including, but not limited to motor vehicle parts, foams, fibreglass, batteries, chemicals, paint and other surface-coating materials, or any type of plastics;
 - (j) waste oil (excluding re-refined oil);
 - (k) peat;
 - (l) sludge from industrial processes;
 - (m) animal waste (except animal waste generated on production land), medical waste, pacemakers, biomechanical devices or chemical waste.

[C]

- 13.6.5. From 9 June 2022, the discharge of human sewage, except Grade A or B treated sewerage, from a ship within 750m of MHWS or into the coastal marine area identified as a Restricted Area for Discharges from Ships.**

[C]

- 13.6.6. From 9 June 2022, the discharge of human sewage, except Grade A or B treated sewerage, from a ship within 1000m of a marine farm.**

[C]

- 13.6.7. Discharge of untreated human sewage into the coastal marine area.**

[C, D]

- 13.6.8. New noise sensitive activity within the mapped Inner Control Boundary at the port of Picton and Shakespeare Bay and at Havelock.**

Commented [27]: WITHDRAWN
Port Marlborough New Zealand Limited
ENV-2020-CHC-49
By memorandum dated 28 May 2021