

14. Port Landing Area 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)

14.1. 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 14.2 and 14.3:

[C]

14.1.1. Shipping activity, 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]

14.1.2. Use of surface water by a ship.

[C, D]

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

[C, D]

14.1.4. Establishment or operation of a marine fuel facility.

[C]

14.1.5. 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.

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[C, D]

14.1.6. Removal or demolition of a building or structure.

[C, D]

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

[C, D]

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

[C]

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

[C]

14.1.10 Removal of submarine or suspended cable or line.

[C]

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

[C]

14.1.12. Coastal recreation.

[C]

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

[R, D]

14.1.14. Excavation.

[R, D]

14.1.15. Filling of land with clean fill.

[R, D]

14.1.16. Non-indigenous vegetation clearance.

[C]

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

[C]

14.1.18. Take and use of coastal water.

[C]

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

[C]

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

[C]

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

[C]

14.1.22 Transportation activity including the construction of a road, right-of-way or path, the construction of a vehicle or trailer parking, manoeuvring and transit, or maintenance operations.

[R]

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

- (a) creating special smoke and fire effects for the purposes of producing films;
- (b) fireworks display or other temporary event involving the use of fireworks.

[R]

14.1.24 The discharge of contaminants into air from the storage or transfer of petroleum products, including vapour ventilation and displacement.

[R]

14.1.25 Discharge of dust.

14.2. Standards that apply to all activities

14.2.1. Construction, use maintenance, repair, replacement or extension of a building or structure.

- 14.2.1.1. The maximum height of any light tower, crane, lifting device, mast elevator, machinery room, conveyor belt, linkspan or gangway, flagpole or antenna, must not exceed 15m.
- 14.2.1.2. Notwithstanding Standard 14.2.1.1, the maximum height of any structure (including a silo or tank) must not exceed 6m above natural ground level or the ground level established by reclamation.
- 14.2.1.3. The minimum setback of a building or structure to a public road must be 3m.
- 14.2.1.4. The minimum setback of a building or structure to the Coastal Living Zone must be 10m.
- 14.2.1.5. The minimum setback of a building or structure to the boundary of a Zone not specified in 14.2.1.4, except the Coastal Marine Zone, must be 5m.
- 14.2.1.6. The land within the minimum building setbacks must not be used for port operations (except motor vehicle parking), cargo loading, storage or a containment area.
- 14.2.1.7. A building or structure must not be sited within 20m of a Riparian Natural Character Management Area.

14.2.2. Disturbance of the foreshore or seabed.

- 14.2.2.1. Any 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.
- 14.2.2.2. The disturbance must be undertaken in a manner which minimises water turbidity.
- 14.2.2.3. The disturbance must not adversely affect navigational safety.
- 14.2.2.4. There must be no contaminants released from equipment being used for the activity.
- 14.2.2.5. All equipment must be removed from the coastal marine area on completion of the operation.

14.2.3. Noise.

- 14.2.3.1. An activity must be conducted to ensure that noise when measured at any point within the notional boundary of a dwelling of any site zoned Coastal Living or Coastal Environment does not exceed the following noise limits:

7.00 am to 10.00 pm	55dB LAeq
10.00 pm to 7.00 am	44dB LAeq 75dB LAFmax

Commented [3]: WITHDRAWN:
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ENV-2020-CHC-49
New rule: to provide for wet sanding and manual scraping of anti-fouling paints in Port Landing Area Zone
New rule: Indigenous vegetation clearance
By memorandum dated 28 May 2021

- 14.2.3.2. The following activities are excluded from having to comply with the noise limits:
- (a) noise generated by a navigational aid, safety signal, warning device or emergency pressure relief valve;
 - (b) 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;
 - (c) noise generated by a ship under way.
- 14.2.3.3. Noise must be measured in accordance with NZS 6801:2008 Acoustics – Measurement of Environmental Sound, and assessed in accordance with NZS 6802:2008 Acoustics – Environmental Noise.
- 14.2.3.4. Construction noise must not exceed the recommended limits in, and must be measured and assessed in accordance with, NZS 6803:1999 Acoustics – Construction Noise.

14.2.4. Use of external lighting.

- 14.2.4.1. Light spill onto any land zoned Coastal Living must not exceed 2.5 Lux spill (horizontal and vertical).
- 14.2.4.2. Light spill onto any adjoining zone, except the Coastal Living Zone, must not exceed 10 Lux spill (horizontal and vertical) measured from 2m into the adjoining zone.
- 14.2.4.3. All exterior lighting (except street lights) must be directed away from any land zoned other than Port Landing Area Zone and any road.

14.2.5. Odour.

- 14.2.5.1. 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.

14.2.6. Smoke.

- 14.2.6.1. 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.

14.2.7. Dust.

- 14.2.7.1. 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.

14.2.8. Particulate from any process vent or stack.

14.2.8.1. 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.

14.2.8.2. 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.

14.3. Standards that apply to specific activities**14.3.1. 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.**

14.3.1.1. In the case of replacement the building or structure to be replaced must have been lawfully established.

14.3.1.2. There must be no increase in the height, size or scale of the building or structure being replaced.

14.3.1.3. There must be no change in the location of the building or structure.

14.3.2. Removal or demolition of a building or structure.

14.3.2.1. Where a building or structure, is in the coastal marine area, it must be removed in its entirety, including piles and any subsurface structures.

14.3.2.2. Material removed or demolished from a building or structure must not be disposed of in the coastal marine area.

14.3.2.3. Foreshore or seabed material must not be removed from the coastal marine area.

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

14.3.3.1. The erection or placement of a marine navigational aid (including lighting) must be carried out by, or on behalf of, Maritime New Zealand.

14.3.3.2. Prior to installation, the GPS mapping co-ordinates and a description of the marine navigational aid must be provided to the Harbour Master.

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

14.3.4.1. A cable or line must not be removed except where it traverses through a Category A or B Ecologically Significant Marine Site.

14.3.4.2. A cable or line being replaced must be removed from the coastal marine area.

14.3.4.3. 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.

14.3.4.4. A replacement cable or line must be put in place within 2 months of the removal of the original cable or line.

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By memorandum dated 28 May 2021

Commented [5]: Clause 16

14.3.4.5. A cable or line must be laid or suspended by, or on behalf of, a Network Utility Operator.

14.3.4.6. Prior to installation, the Network Utility Operator must provide location co-ordinates and details of a replacement cable or line to the Council.

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

14.3.5.1. The structure or equipment must not be located within the coastal marine area for longer than 3 months.

14.3.5.2. The structure or equipment must not exceed 2m in length, 2m in width and 2.5m in height above water level.

14.3.5.3. Prior to installation, the GPS mapping co-ordinates and a description of the structure or equipment must be provided to the Harbour Master.

14.3.5.4. The structure or equipment must not adversely affect navigational safety.

14.3.5.5. There must be no contaminants released as a result of the activity, or from equipment being used for the activity.

14.3.6. Coastal recreation.

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

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

14.3.7.1. Disturbance must be undertaken by non-mechanical means, or be undertaken by, or on behalf of, the Marlborough District Council.

14.3.7.2. Disturbance must be limited to the amount necessary to clear the outfall, pipeline, drain or culvert for flood mitigation purposes.

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

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

14.3.7.5. The clearance must not cause a safety hazard to other users of the area.

14.3.7.6. There must be no contaminants released from equipment being used for the clearance.

14.3.7.7. Fish passage must not be impeded.

14.3.7.8. Refuelling of equipment must not take place on any area of foreshore or seabed.

14.3.8. Excavation.

14.3.8.1. Excavation must not be in, or within 8m of, a river (except an ephemeral river when not flowing) or the coastal marine area.

14.3.8.2. 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) or the coastal marine area.

14.3.8.3. Batters must be designed and constructed to ensure they are stable and remain effective after completion of the excavation.

14.3.8.4. 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.

- 14.3.8.5. Excavation must not cause water to enter onto any adjacent land under different ownership.

14.3.9. Filling of land with clean fill.

- 14.3.9.1. No filling in excess of 1000m³ must occur within any 24 month period.
- 14.3.9.2. A filled area must be designed, constructed and maintained to ensure it is stable and remains effective after completion of filling.
- 14.3.9.3. 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.
- 14.3.9.4. 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 cover must be used.
- 14.3.9.5. Filling must not be in, or within 8m of, a river (except an ephemeral river when not flowing) or the coastal marine area.
- 14.3.9.6. Filling must not cause water to enter onto any adjacent land under different ownership.

14.3.10. Non-indigenous vegetation clearance.

Note:

Standards 14.3.10.1, 14.3.10.5, 14.3.10.6 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.

- 14.3.10.1. 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.
- 14.3.10.2. All trees must be felled away from a river (except an ephemeral river, or intermittently flowing river when not flowing) or the coastal marine area.
- 14.3.10.3. Notwithstanding 14.3.10.2 where trees are leaning over a river, lake, Significant Wetland or coastal marine area, they must be felled in accordance with industry safety practices.
- 14.3.10.4. Except for trees felled in accordance with 14.3.10.3, no tree or log must be dragged through the bed of a river (except an ephemeral river or intermittently flowing river when not flowing) or the coastal marine area.
- 14.3.10.5. 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) or the coastal marine area.
- 14.3.10.6. On completion of a vegetation clearance, a suitable vegetative cover that will mitigate soil loss, must 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.
- 14.3.10.7. The depth of topsoil removed must not exceed more than 20mm over more than 15% of any vegetation clearance site.
- 14.3.10.8. 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) 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) 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.

14.3.10.9. Vegetation clearance must not cause any conspicuous change in the colour or natural clarity of a flowing river after reasonable mixing.

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

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

14.3.12. Take and use of coastal water.

14.3.12.1. The take and use must not change sediment movement patterns or water quality.

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

14.3.13.1 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.

14.3.13.2. 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.

14.3.13.3. The cleaning method shall be undertaken in accordance with the coating manufacturer's recommendations.

14.3.13.4 The cleaning of microfouling and goose barnacles may occur without capture.

14.3.13.5 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.

14.3.13.6 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).

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

14.3.14.1 The storage of marine farming equipment must not cause objectionable or offensive odours to the extent it causes adverse effect at or beyond the boundary of the Port Landing Area Zone.

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

- (a) creating special smoke and fire effects for the purposes of producing films;
- (b) fireworks display or other temporary event involving the use of fireworks.

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

14.3.16. The discharge of contaminants into air from the storage or transfer of petroleum products, including vapour ventilation and displacement.

14.3.16.1. There shall be no objectionable or offensive odours to the extent that it causes an adverse effect at or beyond the boundary of the site.

14.4. Controlled Activities

Application must be made for a controlled activity for the following:

[C]

14.4.1 Dredging and associated disturbance to the foreshore and seabed, to maintain water depth levels in and around berths of the port landing areas, as necessary for ship berthage, manoeuvring and transit.

Standards and terms:

- 14.4.1.1 Dredging must not occur outside the Port Landing Area zones in Elaine Bay and Oyster Bay.
- 14.4.1.2 The depth of any seabed disturbance must be limited to the amount necessary to maintain water depth levels.
- 14.4.1.3 Dredged material must not be deposited within the coastal marine area.
- 14.4.1.4 No more than 1,000m³ 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, in Elaine Bay or Oyster Bay.
- 14.4.1.5 The activity must not adversely affect navigational safety.
- 14.4.1.6 There must be no contaminants released from equipment being used for the activity

Matters over which the Council will exercise discretion:

- 14.4.1.7 The quantity and nature of material to be disturbed and removed from the coastal marine area.
- 14.4.1.8 Water clarity.
- 14.4.1.9 Effects on any terrestrial or marine ecosystems.
- 14.4.1.10 The duration and timing of dredging.
- 14.4.1.11 Deposition or disposal of dredged material.

Commented [6]: WITHDRAWN:
Port Marlborough New Zealand Limited
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New Standards - In water cleaning and removal of microfouling
By memorandum dated 28 May 2021

14.4.1.12 Noise

Commented [7]: Port Marlborough New Zealand Limited
ENV-2020-CHC-49
By consent order dated 23 December 2022

14.45. Discretionary Activities

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

[C, R, D]

14.45.1. Any activity provided for as a Permitted Activity that does not meet the applicable standards.

[D]

14.45.2. Any use of land not provided for as a Permitted Activity or limited as a Prohibited Activity.

[C]

14.45.3. Any use of the coastal marine area not provided for as a Permitted Activity or limited as a Prohibited Activity.

[C]

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

14.56. Prohibited Activities

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

[C]

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

[C]

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

[R]

14.56.3. 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;

Commented [8]: New Zealand Transport Agency
ENV-2020-CHC-000056

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

- (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]

14.56.4. 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]

14.56.5. 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]

14.56.6. 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]

14.56.7. Discharge of untreated human sewage into the coastal marine area.

Appeals Version