

9.0 Coastal Marine

9.1 Introduction

The Act defines the coastal marine area as being that area surrounding the coastline from mean high water springs to the outer limits of the territorial sea (12 nautical mile limit). This includes the foreshore, the seabed, the coastal water and the airspace above the water. By virtue of this definition, a vast proportion of the Marlborough Sounds planning area is coastal marine area.

Section 12 of the Act places restrictions on the use of this area. Generally these restrictions mean that no person can use the coastal marine area in any way, unless it is allowed for by a rule in a regional coastal plan (the Plan) or by a resource consent. This includes disturbance of the foreshore or seabed and any occupation of the coastal marine area to the exclusion of other persons.

Management of the coastal marine area is the responsibility of the Marlborough District Council (as one of its regional functions) under section 30(1)(d) of the Act. This function is shared between the Council and the Minister of Conservation. The Minister, amongst other things, must approve the regional coastal plan and in the case of the Plan the relevant coastal sections.

The Minister is also responsible for the New Zealand Coastal Policy Statement which has an important influence on Council's management of the coastal environment. The Plan cannot be inconsistent with the Statement.

The Council's role in the coastal marine area is twofold and follows from the way in which people's use of the coastal marine area is restricted under the Act. Council has the role of allocating the right to occupy space in the coastal marine area. That is, allocating or authorising the use of public resources for private benefit. The Council also has the role of promoting the sustainable management of the natural and physical resources of the coastal marine area. This carries the onus of ensuring that these resources and the qualities associated with them, remain available for the use, enjoyment and benefit of future generations.

The Council's primary tool for managing the coastal marine area and fulfilling its section 30(1)(d) functions, is the Plan. The main issues identified by the Plan in relation to the coastal marine area follow on directly from Council's role in the management of the coastal marine area. Within the Urban Environment section the Plan deals specifically with Port and Marina activities separately from this Coastal Marine section.

The Act contains provisions enabling the regional councils to implement a system of coastal tendering to safeguard the Crown's interest in the foreshore and seabed, as well as to secure benefits such as meeting a public expectation that coastal allocation will be fair and efficient.

A reform of the legislation covering the management of marine farming - the Aquaculture Reform 2004 - came into effect on 1 January 2005. The aim of the reform was to create a more integrated aquaculture management regime, with a balance between enabling economic development, looking after the environment, settling the Crown's Treaty obligations to Maori, and responding to community concerns. As a result of this reform, marine farming is now mostly covered by the Resource Management Act, with one process for planning where marine farms should go and for granting consents for them to occupy coastal

space. Areas for new marine farming (Aquaculture Management Areas - AMAs) need to be identified in the Plan, and coastal permits for marine farms within AMAs are issued by the Council. The Ministry of Fisheries contributes to the Plan process by testing for any undue adverse effects on commercial, customary or recreational fisheries prior to an AMA being approved in the Plan. Space within AMAs is also to be allocated to iwi to settle Maori claims to commercial marine farming.

9.1.1 Coastal Occupancy Charges

The Resource Management Amendment Act 1997 gave regional councils the opportunity of introducing a charging regime for the occupation of coastal space within the coastal marine area. The amendment placed a responsibility on councils to place a statement in their Regional Coastal Plans, either to set out a charging regime or to say they will not do so. The Act also specified that any money so collected must be spent on the sustainable management of the coastal marine area.

Section 64A of the Act requires Council to have regard to both public and private benefits in determining whether or not a coastal occupation charging regime should apply. Council must consider the extent to which:

- Public benefits from the coastal marine area are lost or gained; and
- Private benefit is obtained from the occupation of the coastal marine area.

The premise underlying coastal occupation charges is that exclusive occupation of the coastal marine area is a privilege not a right - it is public space over which everyone has a right of access, and if used so as to exclude others a similar option of use, the public should be compensated for that exclusion and loss of opportunity.

Most occupations will result in elements of both public and private benefit, and the extent to which they are exclusive will vary. The identification of benefits (public/private) is limited to those directly arising from a structure which is occupying the space, not the associated activity that is facilitated by that structure being present. The benefits or otherwise of the associated activity are assessed through the coastal permit process.

Council has carried out an exercise to assess the relative benefits associated with different types of occupation. This has allowed a comparative assessment in terms of where the principal benefit lies. If charges are to offset the loss of public opportunity as a consequence of exclusive occupation, they should apply in principle wherever there is a net private benefit to the occupier.

In carrying out this exercise Council considers that it is justified in principle in charging for occupation of coastal space in circumstances where net private benefit is greater than net public benefit. In these circumstances the Council is committed to introducing a coastal occupancy charging regime.

Council has completed an information database on the various occupations within the Coastal Marine Area and is satisfied that it now has adequate information in that database to enable the implementation of a coastal occupancy charging regime. However, further work, is required to determine the circumstances in

which charges will be imposed (and possibly waived), the level of charges and use of monies received, as well as preparing plan provisions, including objectives, policies and methods, to implement such a regime.

In determining an appropriate regime for charging for the occupation of coastal space, the Council will take account of the scale of the occupancy, such as the amount of coastal space occupied, as well as the private versus public benefit discussed above

The Council is committed to this process and proposes to introduce provisions dealing with coastal occupation charges into the Marlborough Regional Policy Statement. A new regional policy statement is scheduled to be notified in December 2009. These provisions would then be implemented through plan change or plan review processes.

The Act requires that any money received by the Council from a coastal occupation charge must be used only for the purpose of promoting the sustainable management of the coastal marine area. Through the Marlborough Regional Policy Statement, this Resource Management Plan and State of the Environment Monitoring, the Council has already set out some of the issues for sustainably managing the coastal marine area.

In the context of the Plan, issues concerned with promoting the sustainable management of the coastal marine area can be found in many of the chapters of the Plan, given the integrated nature of the document. However those chapters of specific relevance include the following: Natural Character (2); Indigenous Flora and Fauna and their Habitats (4); Landscape (5); Tangata Whenua and Heritage (6); Public Access (8); and Coastal Marine (9).

9.1.2 Aquaculture Management

The Act states that aquaculture activities (marine farming) can only take place within areas identified in the Plan as Aquaculture Management Areas (AMAs). Marine farming is prohibited outside AMAs. Council has the main role in managing marine farming in the Marlborough Sounds. Providing for marine farming within AMAs enables effects on the community, environment and economy to be managed in an integrated way through the Plan preparation processes, before individual applications for marine farms are considered. The cumulative effects of several marine farms in one area can also be considered.

The Ministry of Fisheries (MFish) continues to play a significant role in the creation of AMAs. Before starting on the public notification processes for including a new AMA in the Plan, Council must request MFish to undertake an assessment as to whether the proposed AMA would have an "undue adverse effect" on commercial, customary or recreational fishing. Areas within the proposed AMA that would unduly affect customary or recreational fishing will be removed from the proposal prior to notification. Any areas that would unduly affect commercial fishing will be identified in the Plan and anyone wanting to

establish a marine farm in those parts of the AMA must first reach an agreement with the affected quota holders before they can apply for a resource consent.

Part of the Aquaculture Reform 2004 included the settlement of Treaty of Waitangi commercial aquaculture claims through the Maori Commercial Aquaculture Claims Settlement Act 2004. These provisions are intended to settle all Maori claims to commercial marine farming interests since September 1992. Iwi are provided with an allocation of area for marine farming equivalent to 20% of marine farming spaces allocated since 1992 and 20% of new marine farming space. This is partly met through the allocation to iwi of some of the new space that comes available through the creation of AMAs. This is intended to ensure iwi have access to coastal marine space to develop their marine farming interests, and to allow the marine farming industry to develop without risks from ongoing Treaty claims.

Existing lawfully established marine farms are deemed to be AMAs, which means they do not need to be included in the Plan through a Plan Change. Marine farming permits and licences granted under previous Marine Farming and Fisheries legislation are generally deemed to be coastal permits.

When resource consents for a marine farm are about to expire, if the site is in an AMA, the existing marine farmer can make an application for a new marine farming consent for the same water space. The application from the existing marine farmer will be decided first, before any other application can be considered for that space.

Creating new AMAs requires a Plan Change. There are three different processes available to undertake this:

- a Council-initiated Plan Change, where Council decides to undertake a plan change to establish an AMA in the coastal marine area;
- a standard Private Plan Change, where any person or organisation can request a change to the Plan to establish an AMA in the coastal marine area; and
- a Council Invited Private Plan Change (I P P C), which involves the Council inviting applications from the public to establish new AMAs. The Council may identify areas of the coastal marine area which will be excluded from applications. These Plan Changes are processed in a similar manner to Private Plan Changes.

All these processes follow the consultation and public notification processes set out in the Act.

Removal or modification of existing AMAs in the Plan, including deemed AMAs, also involves a Plan Change process.

Once an AMA is created, 20-40% of authorisations (or the right to apply for a resource consent for marine farming) are allocated by the Council to a trustee to resolve historic Treaty claims, and the remaining authorisations become publicly available.

Where AMAs have been created through a Council-initiated Plan Change, the remaining authorisations are allocated by public tender. Where an AMA has been created through the IPPC process the remaining authorisations are allocated to the person or organisation that requested the Plan Change. Where an AMA has

been created through the standard Private Plan Change process the Act specifies that the authorisations are allocated by public tender unless an alternative method of allocation is used. Once the authorisations have been allocated, the holders of the authorisations then need to apply for resource consents for marine farming.

9.2 Issue

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

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

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

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

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

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

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upon marine farming which utilises the coastal marine area. The provisions of the Plan recognise that to maintain the strength of the industry, generally it is essential for resource consents to be able to be renewed to continue those marine farming activities. In addition, expansion of the salmon farming industry has been enabled in three locations where the Plan provides for the establishment of new marine farms for salmon, where adverse environmental effects can be satisfactorily avoided, remedied or mitigated.

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

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

The Marlborough Regional Policy Statement (Policies 7.2.10) highlights a number of key considerations for assessing proposals to occupy areas of coastal space. Essentially, public access and recreational use are identified as matters of prime importance for Marlborough. Any allocation for private benefit must not compromise these important values.

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

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

9.2.1 Objectives and Policies

Objective 1	The accommodation of appropriate activities in the coastal marine area whilst avoiding, remedying or mitigating the adverse effects of those activities.
Policy 1.1	Avoid, remedy and mitigate the adverse effects of use and development of resources in the coastal marine area on any of the following: <ul style="list-style-type: none"> a) Conservation and ecological values; b) Cultural and iwi values; c) Heritage and amenity values; d) Landscape, seascape and aesthetic values;

	<ul style="list-style-type: none"> e) Marine habitats and sustainability; f) Natural character of the coastal environment; g) Navigational safety; h) Other activities, including those on land; i) Public access to and along the coast; j) Public health and safety; k) Recreation values; and l) Water quality.
Policy 1.2	Adverse effects of subdivision, use or development in the coastal environment should as far as practicable be avoided. Where complete avoidance is not practicable, the adverse effects should be mitigated and provision made for remedying those effects to the extent practicable.
Policy 1.3	Exclusive occupation of the coastal marine area or occupation which effectively excludes the public will only be allowed to the extent reasonably necessary to carry out the activity.
Policy 1.4	<p>Manage the effects of port and harbour activity by establishing a boundary around specific areas suitable and necessary for port activities in:</p> <ul style="list-style-type: none"> • Picton (including Shakespeare Bay); and • Havelock.
Policy 1.5	<p>Manage the effects of marina activity and future development by establishing a boundary around the marina areas at:</p> <ul style="list-style-type: none"> • Picton; • Waikawa; and • Havelock.
Policy 1.6	Ensure recreational interests retain a dominant status over commercial activities that require occupation of coastal space and which preclude recreational use in Queen Charlotte Sound, including Tory Channel, but excluding Port and Marina Zones.
Policy 1.7	Avoid adverse effects from the occupation of coastal space in or around recognised casual mooring areas.
Policy 1.8	Ensure that moorings within Waikawa Bay are allocated in an efficient and co-ordinated manner.
Policy 1.9	<p>Avoid moorings in Waikawa Bay Coastal Marine Zone 1 outside of the Mooring Management Areas and Waka Moorings Management Areas, except where:</p> <ul style="list-style-type: none"> a) Moorings are for providing access to immediately adjoining properties; or b) Moorings are a new consent for an existing mooring; and <p>provided adverse effects on the environment are avoided, remedied or mitigated.</p>

Policy 1.10	Avoid any adverse cumulative effects of foreshore structures by taking into account the existence of other suitable structures prior to erecting new ones.
Policy 1.11	Avoid foreshore structures in areas of recreational use where there is an adverse effect on recreation values.
Policy 1.12	Provide for defence purposes under the Defence Act 1990, provided adverse effects are avoided, remedied and mitigated.
Policy 1.13	Enable roading activities where adverse effects on the coastal environment can be avoided, remedied or mitigated, and provide for the protection of existing roads from coastal processes.
Policy 1.14	To enable a range of activities in appropriate places in the waters of the Sounds including marine farming, tourism and recreation and cultural uses.
Policy 1.15	Enable the renewal as controlled activities of marine farms authorised by applications made prior to 1 August 1996 as controlled activities, apart from exceptions in Appendix D2 in the Plan.
Policy 1.16	Consideration of other methods of marine farming having lesser effects than long line bi-valve farming in the future.
Policy 1.17	Enable the marine farming of salmon by identifying three appropriate sites in the Plan as Coastal Marine Zone 3, where salmon farming is a discretionary activity.

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

Waikawa Bay is a finite coastal resource that is utilised by a range of cultural recreational and commercial activities.

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

However, due to ongoing demand for moorings at Waikawa Bay, and the different uses competing for water space, the location of swing moorings there needs to be managed in a comprehensive way to enable the efficient use of this Bay for various users. The Mooring Management Areas provided in the Bay establish the locations where swing moorings are appropriately located. New moorings outside a defined Mooring Management Area are discouraged unless they are for the specific purpose of mooring vessels associated with land ownership/residents adjacent to those mooring locations (Policies 9.2.1.1.8 and 9.2.1.1.9).

The Mooring Management Areas have been designed to enable safe manoeuvring of vessels between the shore, their berthage and the inner parts of the Bay. The moorings can be managed either by a Bylaw, which would provide for the moorings to be allocated and managed by the Council, or, if no such Bylaw is

enacted moorings are allocated and managed in Waikawa Bay by the Council via the resource consent process. Moorings comprise a limited discretionary activity inside of the Mooring Management Area within the Bay, if no Bylaw is in place.

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

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

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

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

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

Policy 9.2.1.1.15 recognises that three sites have been specifically identified to provide for salmon farming, after being assessed as appropriate locations.

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

9.2.2 Methods of Implementation

Zoning	<p>The coastal marine area is incorporated into three coastal marine zones (except for port and marina areas).</p> <p>The limits of the Coastal Marine Zones align with the boundary of the coastal marine area, being the: outer limits of the territorial sea; and line of mean high water springs and where the line crosses a river, as agreed between the Minister of Conservation and the Council in the Memorandum of Agreement dated 4 December 1995 or any subsequent amendment to that agreement.</p> <p>Rules have been incorporated to control activities and structures in these zones.</p> <p>In Coastal Marine Zone 1 the Plan identifies those areas where marine farms are prohibited in accordance with Policies 9.2.1.1.1 and 9.2.1.1.6. These areas are identified as being where marine farming will have a significant adverse effect on navigational safety, recreational opportunities, natural character, ecological systems, or cultural, residential or amenity values.</p> <p>In Coastal Marine Zone 3, the Plan identifies three appropriate sites to provide for the development of salmon farming in accordance with Policy 9.2.1.1.15.</p> <p>In addition to the three coastal marine zones the Plan identifies particular zones for the following activities:</p> <ul style="list-style-type: none"> • Port and harbour activity; and • Marina activity. <p>Such areas are managed for these activities.</p>
Rules	<p>Rules and resource consents generally provide for activities which require coastal space where the adverse effects of occupation are avoided, remedied or mitigated in terms of the assessment criteria and standards identified.</p> <p>Within Coastal Marine Zone 2 out to 50 metres from mean low water mark, and beyond 200 metres from mean low water mark, marine farms are non-complying activities. In those areas marine farming involving fin fish farming may be appropriate and it is recognised that consent may be granted by a resource consent application.</p> <p>Rules enable the use of the coastal marine area for defence purposes.</p> <p>Moorings within the Mooring Management Area are managed via the resource consent process as a restricted discretionary activity as the default management process, unless a Bylaw is in place which provides an alternative management framework.</p>

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

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

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

Three specific sites appropriate for new salmon farms have been identified in the Coastal Marine Zone 3.

9.3 Issue

Adverse effects of activities on the natural and physical resources of the coastal marine area.

Given the geography of the Marlborough Sounds, the coastal marine area performs a significant role as a receiving environment. The Marlborough Sounds are large, drowned river valleys. Queen Charlotte Sound is the simpler of the two, approximately 45 km long and indented by many small bays and coves. Pelorus Sound is a complex maze of large inlets, bays, coves and islands. The drowned river valleys are only part of the catchments which extend inland as far as the Marlborough Sounds planning area. To a significant extent it is the activities taking place on the land which determine the environmental quality of the coastal marine area. The coastal marine area is effectively the end point for all activities and their effects.

Rigid controls are necessary in the coastal marine area as this is the 'environmental sink' where the effects of all coastal and land-based activities impact. Coastal marine ecosystems depend on uncontaminated seawater, undisturbed seabed or foreshore and healthy land and freshwater ecosystems adjacent to the coast.

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Environmental effects in the coastal marine area are felt in essentially two ways.

- Degradation of coastal water quality; and
- Alteration to the foreshore or seabed.

Environmental effects are brought about by a number of activities taking place in the coastal marine area and others occurring on land.

Examples of activities which affect (and often depend upon) the quality of the coastal marine area include, but are not limited to marine farming, commercial fishing, recreation and tourism, port and marina activity, waste disposal, farming and forestry, reclamation and placement of moorings.

Controls on the effects of activities and use of the coastal marine area are necessary to ensure that the sustainable management of the coastal resource is promoted.

9.3.1 Discussion: Coastal Marine Water Quality

The Marlborough Regional Policy Statement identifies a number of activities that have the potential to adversely affect coastal marine water quality. Contaminated coastal water can in turn, adversely affect iwi values, public health, visual aesthetics, coastal ecosystems and industries dependent on uncontaminated water (including tourism and marine farming).

The Marlborough Regional Policy Statement identifies three groups of activities which may affect water quality based on the origin of the contaminant. They are:

- Run-off from land;
- Discharges from boats and water-based activities; and
- Point source discharges from land.

A number of land use activities in the Marlborough Sounds have the potential to contaminate coastal water. The contaminants may include pesticides, herbicides and fertilisers that are applied to the land or directly into streams, micro-biological contamination from animal waste, sediment from soil erosion and contaminants contained in leachate from rubbish tips and developed areas adjacent to the coastal waters.

A number of water quality issues arising from water-based activities are of concern to the residents of Marlborough. These include the discharges from vessels including ballast water, sewage and litter as well as spills resulting from shipping incidents. Other sources of contamination include the leaching of anti-fouling paints from ships' hulls, nutrient enrichment and waste from marine farms and the discharge of fish waste during fish processing operations at sea. The Council is responsible for controlling discharges (excluding ballast water discharges) and dumping of waste from ships and offshore installations through the Resource Management (Marine Pollution) Regulations 1998 developed under sections 15A, 15B and 15C of the Act. The regulations do not apply to discharges or dumping into the coastal marine area from land.

Point source discharges refer to discharges from a pipe or recognisable and definitive point. These may include sewage outfalls, discharges of industrial waste, stormwater discharges, overflows from septic tanks and run-off of contaminants from particular sites such as boat building or maintenance areas, or from specific storage areas adjacent to coastal waters. Potential

contamination arises from disturbance to the foreshore or seabed. The water quality effects of this issue are included under Section 9.4: Alteration to the Foreshore and Seabed. Further, coastal marine water can be adversely affected by contaminants present in freshwater ecosystems draining into the coastal marine area. This issue is covered at source under Chapter 3 freshwater of the Plan.

Finally, climate can exacerbate water quality. During periods of high rainfall water quality in the Sounds deteriorates through greater quantities of run-off and stormwater discharge. For example, rainfall over certain levels can cause pollution which results in the immediate closure of marine farm harvesting until water quality is improved to the level where shellfish can be safely consumed.

9.3.2 Objectives and Policies

Objective 1	Management of the effects of activities so that water quality in the coastal marine area is at a level which enables the gathering or cultivating of shellfish for human consumption (Class SG).
Policy 1.1	Avoid the discharge of contaminants into the coastal marine area where it will modify, damage or destroy any significant ecological value.
Policy 1.2	Avoid the discharge of contaminants into the coastal marine area where it will adversely affect: <ul style="list-style-type: none"> a) Areas identified by iwi as being of special spiritual, cultural or historical significance; or b) Areas identified as outstanding landscape.
Policy 1.3	No discharge, after reasonable mixing, (either by itself or in combination with other discharges) should limit the consumption of seafood from the coastal marine area.
Policy 1.4	Recognise and provide for the need to: <ul style="list-style-type: none"> a) Preserve the natural character of the coastal environment; b) Protect public health; c) Protect the visual aesthetics of the area; d) Protect the olfactory aesthetics of the area; e) Protect sites of spiritual, historical or cultural significance to Maori identified in accordance with tikanga Maori, including waahi tapu, tauranga waka, maataitai and taonga raranga; f) Avoid , remedy or mitigate adverse effects on ecological systems including natural movement and productivity of biota, natural biodiversity and adverse effects on: <ul style="list-style-type: none"> • shellfish areas; • fish spawning and nursery areas;

	<ul style="list-style-type: none"> • bird-breeding and nursery areas; • fish and bird migration through estuaries; • feeding patterns; • habitats important to the continued survival of any indigenous species; • wildlife and marine biota; and • the intrinsic value of ecosystems. <p>g) Avoid, remedy or mitigate adverse effects on existing lawful activities, particularly marine farming, fishing, recreation and tourism activities when assessing a permit to discharge water or contaminants into the coastal marine area.</p>
Policy 1.5	<p>Progressively eliminate discharge of human sewage direct to the coastal marine area from land-based wastewater treatment facilities , including existing authorised discharges, except where:</p> <ul style="list-style-type: none"> a) The allowance of the discharge better meets the purpose of the Act than disposal onto land; b) There has been consultation with the tangata whenua in accordance with tikanga Maori and due weight has been given to sections 5, 6, 7 and 8 of the Act; and c) There has been consultation with the community generally.
Policy 1.6	<p>Ensure that every coastal permit to discharge contaminants into the coastal marine area contains conditions requiring the discharger to monitor the effects of the discharge and compliance with the water quality classification (SG).</p>
Policy 1.8	<p>Prevent the dumping of non biodegradable waste anywhere in the coastal marine area including rubbish from vessels.</p>
Policy 1.9	<p>Avoid the discharge of wastes by ensuring the adequate and convenient provision of facilities for the collection and appropriate disposal of litter, sewage and residues from vessel maintenance.</p>
Policy 1.10	<p>Avoid, remedy or mitigate any adverse effects of sediment or other contaminants from land-based activities entering coastal water.</p>
Policy 1.11	<p>Avoid where practicable, remedy or mitigate the adverse effects of the disposal of bio-degradable rubbish.</p>

The Marlborough Regional Policy Statement identifies water quality standard SG, as set out in the Third Schedule to the Act, as the water quality standard which is generally sought for Marlborough coastal marine waters. Objective 9.3.2.1 carries this over as the general aim for coastal water quality under the Plan. In doing this, it is important to acknowledge that present water quality in a number of areas is degraded to a state where water quality standard SG is not achievable in the immediate future, however it is anticipated that the objectives, policies and rules contained in the Plan will ensure that eventually the water standard is met.

The water quality standard is the minimum needed to achieve Objective 5.3.2 of the Marlborough Regional Policy Statement, “that water quality in the coastal marine area be maintained at a level which provides for the sustainable management of the marine ecosystem.” Shellfish are a good water quality indicator species because of their filter feeding characteristics and their accumulation and harbouring of contaminants.

The policies identified work to achieve the standard set by Objective 9.3.2.1. Discharges of contaminants from a point source to the coastal marine area have the potential to significantly affect coastal water. In particular, human sewage, even when treated, carries with it a greater potential for the transmission of disease than any other contaminant. Its discharge to water is also intolerable to Maori, therefore the necessity for stringent control over this. However, as a result of the introduction of sections 15A, 15B and 15C of the Act control of discharges of contaminants and dumping from ships will be controlled by the Resource Management (Marine Pollution) Regulations 1998.

Run-off from land is possibly the most pervasive form of pollution in the Marlborough Sounds. The Plan acknowledges this both above and throughout the Plan. Control is needed at the source of the problem, namely on land. (Refer to Chapter 13: Soil Conservation and Chapter 14: Discharges of Waste to Land).

9.3.3 Methods of Implementation

Rules	<p>Rules are used to control discharges to water within the coastal marine area. In particular, the discharge of human sewage as a point source discharge will be assessed as a Discretionary Activity in order to establish the impact of any contaminants on the water quality standard.</p> <p>The Council will ensure that appropriate assessment, monitoring and enforcement of rules will be undertaken.</p>
Mixing Zone	<p>For each resource consent application to discharge contaminants, a zone of reasonable mixing will be determined (by way of condition on the resource consent) as a means of ensuring compliance with the water quality standard (SG).</p> <p>Criteria to be taken into account in determining the extent of the zone of reasonable mixing include:</p> <ol style="list-style-type: none"> a) The need to minimise the size of the mixing zone; b) The need to avoid, remedy or mitigate adverse effects within the mixing zone; and c) The characteristics of the discharge and receiving environment including: <ul style="list-style-type: none"> • Design of the outfall (eg; single or multi-point diffuser); • Depth of water over the outfall; • Density difference between the effluent (usually freshwater) and the receiving water (often saline) which determines its buoyancy; • Speed and orientation of currents across the outfall;

	<ul style="list-style-type: none"> • Degree of stratification in the water column which may limit vertical mixing; • Tidal and wind-driven currents; • Rate of breakdown and inactivation of the waste; • Topography of the coastline; and • Mixing characteristics within the waterbody itself.
Review	<p>The Council will within one year of the Plan becoming operative consider whether or not it is appropriate to review the conditions of existing discharge permits, pursuant to section 128(1)(b) of the Act, in order to enable the water quality standard (SG) to be met.</p> <p>When considering whether these discharges need to be upgraded the Council will consider:</p> <ul style="list-style-type: none"> • The adverse effects associated with the discharge; • Any geographical or technical difficulties involved; and • The likely costs that will be imposed on consent holders by the upgrading of the discharge. <p>For discharges that the Council considers need to be upgraded, the Council will establish reasonable timeframes within which existing discharges will be upgraded.</p>
Enforcement	The Council will initiate a programme to ensure that unlawful discharges in the coastal marine area are discontinued or a resource consent in respect of the discharge is obtained.
Liaison	The Council will liaise with the Port Company to establish additional litter, boat maintenance residue and boat sewage disposal facilities as necessary.
Education	The Council will implement an education and awareness programme addressing the adverse effects of discharging from boats. As a part of this, boat operators will be actively encouraged to provide holding tanks and/or plant for treatment of waste prior to discharge.
Support	The Council will in conjunction with interested persons/organisations, organise or support beach clean up operations as required.
National/Other Controls	<p>The Council will implement the Resource Management (Marine Pollution) Regulations 1998 in relation to discharges from ships and offshore installations.</p> <p>In accordance with the Maritime Transport Act 1994, the Council will implement a Tier II Oil Spill Contingency Plan to mitigate the adverse effects of oil pollution in the coastal marine area.</p>
Monitoring	The Council will undertake a comprehensive coastal water quality monitoring programme in conjunction with other relevant agencies that involves:

- a) State of the environment monitoring including:
 - Near shore coastal water quality;
 - Estuarine water quality; and
 - Bathing beach water quality with a particular emphasis on pathogens that pose a threat to public health.
- b) Impact monitoring to assess the effects of authorised and unauthorised discharges of contaminants on coastal water quality and the benthic environment;
- c) Compliance monitoring to ensure that all holders of coastal permits involving the discharge of contaminants to water meet the conditions of their permits;
- d) Record keeping including:
 - State of the environment, impact and compliance monitoring information;
 - Requests for information from iwi, other agencies and the public; and
 - The number of notified and non-notified coastal permits applied for and the number granted and declined in each category.
- e) Reporting to the Council on a regular basis the results of the above state of the environment, impact and compliance monitoring activities; and
- f) In conjunction with other agencies, the Council will undertake a comprehensive monitoring programme of the foreshore conditions of Long Island - Kokomohua Marine Reserve.

A number of methods are included to implement the objective and policies outlined above. It is the implementation of the rules though, which is likely to be the most effective means in achieving the water quality sought and the sustainable management of coastal water.

Refer to Chapters 13 Soil Conservation and 14 Discharges of Waste to Land for methods relating to coastal water contamination as a result of run-off from land.

9.4 Alteration to the Foreshore and Seabed

Section 12 of the Act places restrictions on use of the foreshore and seabed within the coastal marine area. Essentially, no person may reclaim or drain, disturb (excavate, drill or tunnel), deposit substances or remove any natural material (sand, shingle, shell) in respect of the foreshore and seabed, unless it is provided for by either a rule in the Plan, or by a resource consent. These types of actions which are restricted by section 12 of the Act, are all taken to be alterations to the foreshore or seabed.

Various activities involving alterations to the foreshore and seabed are undertaken within the Plan area. A number provide considerable benefits to the community. An example is the clearance, cutting and realignment of river

mouths to lessen potential effects of flooding events. The ability for people or authorities to undertake this activity provides considerable benefits and it is likely that the need for this activity will continue in the future. Therefore, the Plan needs to provide for alterations to the foreshore and seabed where there are no or only very minor adverse effects resulting.

The main issue in relation to alteration is the need to provide for alterations to the foreshore and seabed while avoiding, remedying or mitigating the adverse effects of this activity. The objective and policies which follow address this issue, while the following examples of foreshore and seabed alterations seeks to further explain and define the issue. These examples are not exhaustive and the provisions of this section apply to any alteration to the foreshore or seabed within the coastal marine area.

Alterations, that change the physical shape of the foreshore and/or seabed include:

Reclamation, Drainage and Impoundment

Outside the main port areas at Picton and Havelock, large scale reclamations are not a feature of the Sounds. Aside from the reclamations associated with the commercial facilities at Elaine Bay and Oyster Bay (Port Underwood), reclamations in the Sounds are generally limited to small abutments for jetties. These are commonly two or three square metres in area. The impoundment which bounds Waikawa marina is effectively a reclamation of the foreshore and seabed.

Probably the most significant adverse effect of a reclamation is the burial of the seabed. This threatens habitats associated with the seabed and potentially the life-supporting capacity of a much larger surrounding area. Other potential effects associated with reclamation include interruption to the water movement patterns, exclusion of water-based uses, visual impacts and construction effects.

Dredging

Dredging of the foreshore and seabed is generally undertaken to allow ship or boat navigation in areas which would otherwise be too shallow. It is most often required around ports and marinas, particularly within and approaching the Havelock port area. Dredging is also carried out for the purpose of clearing, cutting or realigning river mouths. Generally though, very little dredging and spoil disposal occurs in the Marlborough Sounds. Periodically, a limited amount of material needs to be removed from alongside jetties. This normally occurs at the head of a bay where siltation has occurred over a number of years and has eventually made a jetty unusable at low tides. There are various means of disposing of dredging spoil, but generally within the Sounds, land disposal has been used and preferred in the past.

Both dredging and dredging spoil disposal can have significant adverse environmental effects. The main effect of dredging is the physical destruction and/or removal of any benthic aquatic life within the dredged area (organisms that live in or on the bottom sediments). Dredging can also affect water movement patterns and alter the physical nature of sediments, thus potentially affecting habitats.

Extraction of Sand, Shingle, Shell and Other Natural Material

Very little extraction of material from the coastal marine area is undertaken within the Marlborough Sounds. A small amount of sand is removed from Shelly Beach and used for beach enhancement and protection works on the nearby Waikawa and Picton foreshores.

The effects of extraction will relate to the physical disturbance associated with removing material and the type of operation or technique used for extraction.

Disturbance Associated with Coastal Structures and Marine Farms

Disturbance of the foreshore and/or seabed will arise as a result of coastal structures being fixed to the beach or sea floor. There are a considerable number of structures in the Sounds ranging from jetties, moorings, log-loading facilities, retaining walls, submarine cables and the structures associated with marine farms.

The environmental effects of fixing these (and numerous other) structures to the foreshore and/or seabed are in general, the modification or in some cases the destruction of benthic aquatic life and changes to natural water and sediment movement. In addition, marine farms (particularly sea cage fish farming) can lead to sedimentation as faeces, uneaten feed pellets, and other organic matter cleaned from the cages falls to the sea floor. This, in turn, can alter the habitat of the benthic community. Longline shellfish farming can cause a similar but lesser effect from organic matter dropping to the sea floor.

Other Disturbance

Numerous other activities which take place in the coastal marine area have the potential to destroy, damage or disturb the foreshore and seabed. These activities include, but are not limited to water transportation activities (eg; ships, conventional and fast ferries, launches and concentrations of smaller boats); the cleaning of blocked pipes (eg; stormwater outfalls); beach tidying and grooming; the removal of vegetation (eg; around structures); and the burial on the foreshore of dead marine mammals and other marine fauna.

Alterations to the foreshore or seabed can have adverse effects. Activities which result in alteration of the foreshore or seabed can disturb or destroy Maori cultural values of mahinga maataitai or taonga raranga and spiritual values of waahi tapu and their sites of significance. Natural character can also be degraded, along with landscape values and habitat or ecological values. Modification, interruption or interference with physical coastal processes can also occur, potentially leading to increased erosion and scouring. A temporary decrease in water clarity and quality in the vicinity of the works is common.

9.4.1 Objectives and Policies

Objective 1	Protection of the coastal environment by avoiding, remedying or mitigating any adverse effects of activities that alter the foreshore or seabed.
Policy 1.1	Avoid, remedy or mitigate the adverse effects of activities that disturb or alter the foreshore and/or seabed on any of the following: a) Conservation and ecological values;

	<ul style="list-style-type: none"> b) Cultural and iwi values; c) Heritage and amenity values; d) Landscape, seascape and aesthetic values; e) Marine habitats and sustainability; f) Natural character of the coastal environment; g) Navigational safety; h) Other activities, including those on land; i) Public access to and along the coast; j) Public health and safety; k) Recreation values; and l) Water quality.
Policy 1.2	<p>Any reclamation drainage or impoundment within the coastal marine area shall be considered inappropriate unless it can be demonstrated that:</p> <ul style="list-style-type: none"> a) An alternative method or land-based site (above MHWS) for the activity for which the reclamation, drainage or impoundment is to be used is not practicable; b) Efficient use of coastal space is made by using the minimum area of the coastal marine area necessary for the reclamation, drainage or impoundment; and c) The finished appearance of the reclaimed or drained area, or the impoundment, including its size, shape and the materials used is as far as practicable compatible with the environment in which it is located.
Policy 1.3	<p>Ensure that material used to create and form any reclamation or impoundment does not include contaminants which have the potential to adversely affect the coastal marine area.</p>
Policy 1.4	<p>Recognise the necessity of maintenance dredging, in particular, that associated with: continuing the use of existing coastal structures, port and marina activities, and for river control.</p>
Policy 1.5	<p>Any proposal for dredging within the coastal marine area shall demonstrate:</p> <ul style="list-style-type: none"> a) The necessity for dredging; b) An appropriate disposal method; and c) The measures undertaken to avoid, remedy or mitigate adverse effects on marine habitats, recreation values, adjacent activities or users, water quality and other adverse environmental effects.
Policy 1.6	<p>Promote land-based disposal of dredging spoil.</p>
Policy 1.7	<p>Recognising (by way of controlled activity status) the importance of renewing the majority of existing marine farms authorised by applications made before 1 August 1996 while mitigating adverse effects on the environment by way of conditions.</p>

Policy 1.8	Providing for minor adjustments to boundaries of resource consent areas for existing farms without increasing their size so as where necessary to reduce adverse effects or to recognise existing locations of farms.
Policy 1.9	Enable the adverse visual or ecological effects of particular farms to be addressed when the rules expressly provide for that.
Policy 1.10	Recognise the necessity of maintenance, improvement and enhancement of roading structures and that these activities may, in some circumstances, result in an alteration of the seabed or foreshore.
Policy 1.11	Recognising (by way of discretionary activity status in the Coastal Marine Zone 3) provision for salmon farming at three appropriate sites.

Some alteration to the foreshore and seabed is necessary to enable the continuation of normal coastal marine activities. The policies seek to provide a guide for their continuation while controlling the potentially significant adverse effects which can arise from any alteration to the foreshore and seabed. Some alteration is also necessary to enable salmon farming at three identified sites.

9.4.2 Methods of Implementation

Rules	In general, rules provide for certain alterations to the foreshore and seabed as Permitted Activities subject to specific performance standards. Most alterations however, will be assessed on their merits, as a Discretionary Activity.
Assessment Criteria	The assessment criteria for Discretionary Activities involving foreshore and seabed alterations, enable the effect of the alteration on the coastal marine area to be assessed. An assessment of the effect of the proposed alteration on Maori, cultural and heritage values, natural character, landscape and ecological values will also be required.
Monitoring	The Council will monitor the effects of permitted and consented activities in the coastal marine area to: determine the effectiveness of plan policies and rules; assess compliance with consent conditions; and promote sustainable management.

The use of rules and associated assessment criteria, and performance standards where minor alterations are permitted, allows for control over the adverse effects of alterations to the foreshore and seabed. It also enables the numerous variabilities which exist in assessing the effects of the various types of alterations to the foreshore and seabed, to be taken into account.

9.4A Issue

Allocation of the right to apply for a coastal permit for marine farming in Aquaculture Management Areas (AMAs) in a manner that is effective, efficient and fair to all parties involved.

As explained in Section 9.1.2 of the Plan, there are three different processes for Plan Changes to include new AMAs in the Plan. With a Council-initiated Plan Change, authorisations are allocated by public tender. Where an AMA has been

created through the IPPC process, authorisations are allocated to the person or organisation that requested the Plan Change. These methods are considered to be effective, efficient and fair to the parties involved.

Under the standard Private Plan Change process, any person or organisation can request a change to the Plan to establish an AMA in any part of the coastal marine area. These Private Plan Changes are processed in terms of Schedules 1, Part 2 and 1A of the Act. The time, resources and costs involved with evaluating new AMAs and providing for them in the Plan through a Plan Change process are considerable. With a standard Private Plan Change, these costs will be borne by the applicant. The Council recognises that people or organisations are not likely to make requests for new areas, unless they have some certainty that they will receive the right to apply for a coastal permit for marine farming should the Plan Change succeed. While the Act states as a default that authorisations should be allocated by public tender, the Council acknowledges that public tendering does not give the Plan Change applicant sufficient certainty that they will receive the right to apply for a coastal permit for marine farming within that new AMA.

In order to enable effective, efficient and fair use of a standard Private Plan Change approach for the consideration of new AMAs, the Council considers that the Plan should specify an alternative method of allocating the right to apply for coastal permits for marine farming. The alternative allocation method adopted by the plan is considered to be fair and provide certainty to the Plan Change applicant.

In addition, the public tendering process assumes multiple applications for authorisation allocations. Public notification, calling for authorisation applicants, is the default process in the Act. In circumstances where there can only be one applicant (the Private Plan Change applicant), this process of public notification for authorisations is considered unnecessarily time-consuming and costly. The Plan, therefore, adopts an alternative method which provides the right to apply for coastal permits for marine farming directly to the operative Private Plan Change applicant. This method is considered to be more efficient and avoids unnecessary delays in the process.

9.4A.1 Objectives and Policies

Objective 1	An effective, efficient and fair process for the allocation of the right to apply for coastal permits for marine farming in Aquaculture Management Areas
Policy 1.1	Allocation of authorisations by way of public tendering for coastal space in AMAs created through Council Plan Changes.
Policy 1.2	Processes for obtaining the right to apply for coastal permits in AMAs that are effective, efficient and fair, and provide sufficient certainty for marine farmers to enable proposals for new AMAs and marine farms to be put forward for evaluation through standard and Council Invited Private Plan Changes.
Policy 1.3	Allocation of new coastal space to iwi in accordance with the procedures established through the Aquaculture Reform 2004.

9.4A.2 Methods of Implementation

<p>Zoning</p>	<p>Aquaculture management areas (AMAs) will be included in the Plan as Aquaculture Management Area Zones (AMA Zones).</p> <p>Existing, lawfully established marine farms are deemed to be AMAs.</p> <p>All new marine farms must be established in an AMA Zone following the granting of the necessary resource consents for coastal permits.</p> <p>At some later date, Council may decide to propose new AMA Zones in the Plan by way of Council-initiated Plan Change or IPPC processes, as priorities and resources for Council determine.</p> <p>New AMA Zones may be established in the Plan by way of requests for Private Plan Changes.</p> <p>AMA Zones will be managed for aquaculture activities (marine farming).</p>
<p>Rights to apply for coastal permits for marine farming</p>	<p>Authorisations for available space within AMA Zones, which have been included in the Plan as a result of a Council-initiated Plan Change, will be allocated by way of public tender.</p> <p>An alternative method is specified in the Plan for obtaining the right to apply for available space within AMA Zones which have been included in the Plan as a result of a request for a standard Private Plan Change. In these circumstances, the right to apply for available space within AMA Zones will be offered to the first person whose Private Plan Change was complete and successfully resulted in an operative AMA Zone for that area of coastal marine area</p> <p>Where the right to apply for available space or the resulting coastal permit for marine farming is not taken up or lapses, allocation will be by way of public tender.</p>

9.5 Issue

Ships capable of travelling at speed or generating significant wake in enclosed waters have the potential to conflict with a range of other coastal users and values and generate adverse environmental effects.

9.5.1 Discussion

The amount of energy contained in waves generated by ships adds substantially to the natural energy levels in the environment and these increased energy levels are responsible for generating adverse effects on the environment including changes to shoreline morphology, sub-tidal and inter-tidal zone habitats, impacts on public safety, public access and enjoyment of the coastal environment and the amenity values of the area. The speed at which some ships travel also has implications for the safety of those using the coastal marine area.

The tikanga Maori (customary values and practices) of Te Atiawa have been adversely affected by the operation of ships, particularly the fast ferries, with a decline in kaimoana and associated mana. The need for iwi to practice kaitiakitanga and ensure that Queen Charlotte Sound and Tory Channel are available for future generations is paramount. (This issue is partially covered in Chapter 6.) Other iwi, besides Te Atiawa, who establish manawhenua through the courts, or other processes, may in time also be appropriately recognised in managing the ship wake issue.

It needs to be recognised that shipping activity contributes to the social and economic wellbeing of people and communities by providing an important link between the North and South Islands and also by providing a means of transport for goods within the Sounds. (This issue is also covered in Chapter 19 Water Transport.) Tory Channel and inner Queen Charlotte Sound in particular comprise a transportation route of national significance for shipping activity and, as such, it is important to recognise this route as a resource that needs to be sustainably managed in the P lan.

In managing the effects of the wake generated by conventional ships in Tory Channel and Queen Charlotte Sound, it is accepted that shipping operators have certain operating parameters that affect ship speed that need to be accounted for. In particular, the operators of conventional inter-island shipping services, have relied on an ability to operate their fleets of conventional ships at speeds of up to 20 knots in Tory Channel and inner Queen Charlotte Sound. This operating speed has been necessary historically to enable conventional vessels to achieve a sufficient number of daily crossings of Cook Strait to maintain a generally accepted level of service and for these services to remain socially and economically viable, from the perspective of the wider community.

The operation of the fast ferries has been controlled within Tory Channel and Queen Charlotte Sound by a Navigation Bylaw since 15 December 2000. This bylaw resulted in fast ferry operators being required to slow the speed of their ships from up to 40 knots to 18 knots within the confines of Tory Channel and Queen Charlotte Sound. Whilst the bylaw was primarily intended to manage navigation safety issues within the waters of the Sounds, evidence obtained from monitoring carried out by the Council indicated that the ship speed reduction had resulted in environmental benefits as well. Prior to the fast ferry speed restrictions being put in place there was wide community concern about the adverse effects being created by the waves generated by these ships-operating in

the Sounds. Some residual concerns remain about the effects of ship-generated waves on marine biology, shoreline geomorphology, shoreline structures, recreational values, small boat safety and Maori cultural values. The Council continues to monitor these values and effects. Recent indications are that, since the introduction of the fast ferry speed restrictions, there has been some improvement and recovery in the condition of the environment, particularly around the coastal margin of the Sounds.

The potentially adverse effects of ship-generated waves need to be managed in a manner that provides for the continued economic, social and cultural wellbeing of all people and communities, while sustaining the coastal environment. This is particularly so for the future as it is likely that shipping activity within Tory Channel and Queen Charlotte Sound will increase. International regulations for roll-on roll-off passenger ferries have introduced enhanced safety requirements regarding ship stability for vessels carrying more than 400 people. This will ultimately mean that larger ships are expected to be operating along the inter-island ferry route. This along with industry trends towards the use of larger, faster ships means that there is potential to generate greater effects in future than those experienced presently.

Shipping activity in other areas of the Marlborough Sounds such as Pelorus and Kenepuru Sounds is different to that of Queen Charlotte Sound and Tory Channel. The majority of shipping within Pelorus and Kenepuru Sounds is coastal or local in nature and relates to the transport of tourists, logs, livestock as well as fishing and marine farming fleets. These vessels are generally smaller and travel at speeds that are slower than ships such as the fast ferries and conventional ferries. It is considered unlikely that other areas of the Sounds will develop the type or extent of shipping experienced in Tory Channel or Queen Charlotte Sound given the lack of, or potential, to develop a deep water port within these other areas. At this stage therefore, there is currently little justification for the regulation of shipping activity in these areas.

In addition there is an increasing number of larger recreational vessels using the Sounds waters, some of which travel at speeds similar to the fast ferries. Although it is not proposed to control these vessels at this stage, the potential for adverse effects from their wake may need to be assessed in the future in light of their growing numbers.

9.5.2 Objective and Policies

Objective 1	To ensure that the environmental effects of ship-generated waves and speed are managed so that potential conflict with other coastal users and values is avoided, remedied or mitigated.
Policy 1.1	Enable as a permitted activity the continuing use of the National Transportation Route and Queen Charlotte Sound by ships travelling up to 15 knots.
Policy 1.2	Enable as a permitted activity the continuing use of the National Transportation Route for existing inter-island shipping services up to speeds that reflect the operating regime that was current at 14 November 2002.

Policy 1.3	Apply controls to shipping activity in Queen Charlotte Sound and Tory Channel, based on the amount of energy produced by ship-generated waves, which may cause adverse environmental effects.
Policy 1.4	<p>When considering applications for consent for ships that are expected to propagate waves having energy levels in excess of limits specified in the Plan, to have particular regard to the potential for adverse effects on:</p> <ul style="list-style-type: none"> • Places and cultural values of importance to Te Atiawa; • The shoreline and lawfully-established shoreline structures; • Amenity values enjoyed by residents; • People's use and enjoyment of the foreshore and coastal marine area for recreational activities; and • The natural character of the coastal environment of the Sounds.
Policy 1.5	Work with the community and the shipping industry to continually assess the appropriateness of the overall framework for shipping activities in light of environmental and technological changes or the occurrence of unforeseen effects from shipping activity.
Policy 1.6	Undertake monitoring to assist in developing appropriate approaches to managing the effects of shipping activity in Queen Charlotte Sound and Tory Channel.
Policy 1.7	Work in partnership with Te Atiawa in managing the effects of ship-generated waves in Queen Charlotte Sound and Tory Channel.
Policy 1.8	Recognise and provide for Te Atiawa's continued access to, and use of, traditional coastal resources in Tory Channel and Queen Charlotte Sound and in particular, recognise the value of Tory Channel for Te Atiawa, in terms of the concepts of mauri, mana and manaakitanga that this area brings to this iwi.
Policy 1.9	Maintain the life supporting capacity of coastal ecosystems by avoiding, remedying or mitigating the adverse effects of ship-generated waves and speed.
Policy 1.10	Maintain people's ability to safely use the foreshore and the coastal marine area for a range of recreational activities.
Policy 1.11	Maintain people's ability to effectively use any lawfully established structure for that structure's intended purpose.

The policies set out a framework that provides certainty for all existing users of the Sounds as to an accepted level of effects within Queen Charlotte Sound and Tory Channel where the adverse effects of ship-generated waves and speed have been apparent. The policies seek to achieve an acceptable balance between the positive benefits that flow from inter-island shipping activity and the need to appropriately manage the adverse effects of inter island shipping activity on the coastal environment.

The policies enable certain inter-island ships to continue to operate at speeds through the National Transportation Route, consistent with the operating parameters that existed as at 14 November 2002, being the date variation 3 to the Plan was notified, to include the issue of ship wake and speed.

The controls for managing the effects of shipping activity in Queen Charlotte Sound and on the National Transportation Route are based on ship-generated wave energy. The Environment Court has determined that the amount of energy appropriate for the National Transportation Route is to be founded on the environmental effects associated with conventional ships operating prior to the introduction of the M.V. Aratere in 1999. The energy limits included in the Plan are therefore based on the need to ensure that damage or change at the shore is minimised, that cultural values of Te Atiawa and the amenity values enjoyed by residents are provided for and that the natural character of the Sounds environment is protected.

The Council will continue to monitor the state of the Sounds environment and the impact of ship generated waves on the environment. It is envisaged that the methods currently included in the Plan for addressing the issues arising from ship-generated waves will be used until such time as more is learned about the type and wave-generating characteristics of future ships to be introduced to service on the National Transportation Route. Plan policies and methods will be adapted in future where changes in the type, scale or intensity of shipping result in the need for a different response to worsened environmental effects associated with Ship-generated waves.

The provision of accurate and up to date information on the environmental effects of waves generated by shipping activity is the foundation of an adaptive management regime that continually assesses the overall framework established to manage the issue. The direction established by the above policies is based on the assumption that the effects of ships can be effectively and efficiently managed. Information will need to continue to be collected, analysed and an assessment made with regard to the effectiveness and efficiency of the regulatory framework. This process is fundamental to an adaptive management regime, which recognises the uncertainty of understanding the effects of change in the coastal environment. It is envisaged that the existing operators of inter-island ships will be a key contributor to this process, so that future endeavours to manage the issue will be based on the best available information and will best represent the interests of stakeholders. This is strongly preferred over an approach where the Council is required to act on its own in regulating shipping activity in the Sounds.

This is consistent with the adoption of an adaptive management approach that is responsive to new information and better understanding. This is based on a collaborative approach, which becomes available through the monitoring and shared analyses of existing and future shipping activities, state of the environment monitoring and future technological advances in ship design.

The Sounds' community, and those who use the Sounds for recreational use, have Tory Channel and Queen Charlotte Sound specifically managed in respect of ship-generated waves. This also includes protecting their health and safety. In terms of cultural matters, the proposed framework also recognises the significance of the National Transportation Route and its surrounding area to Te Atiawa and ensures that their involvement in this matter is ongoing.

In providing for a National Transportation Route for shipping activity, it is recognised that there will inevitably be unavoidable adverse effects on the environment of Queen Charlotte Sound and Tory Channel. Ongoing research and monitoring will be required so that appropriate action can be taken in a timely way. The shipping industry will be encouraged to contribute to this research and monitoring work and to assist in devising ways of managing the effects of shipping activity into the future.

It is not possible to completely avoid present and future adverse environmental effects generated by ships using Tory Channel and Queen Charlotte Sound without imposing very restrictive controls. Such controls are not regarded as being a realistic or justifiable option given the important regional and national economic benefits derived from the operation of ships using this transportation route.

There are other policies in the Plan that further address the environmental effects of shipping activity and, which need to be considered in conjunction with those above. Refer particularly to Chapter 6: Tangata Whenua and Heritage; Chapter 8: Public Access and Chapter 19: Water Transportation.

9.5.3 Methods of Implementation

Area Identification	Tory Channel and part of Queen Charlotte Sound have been identified as a National Transportation Route -see Volume Three. The National Transportation Route is located in Tory Channel and extends into inner Queen Charlotte Sound (between West Head, Ruakaka Bay, and a point southwest of Kaitapeha Bay) to the Port of Picton (excluding Grove Arm). Queen Charlotte Sound (excluding the National Transportation Route) has also been defined as being part of an established shipping route.
Rules	Rules relating to the use of surface waters by ships apply to Queen Charlotte Sound and Tory Channel. The use of surface waters in these areas is subject to maximum speed limits and for controlled activities, a maximum wave energy limit as well. The areas to which speed limits apply are defined in Volume Three Maps.
Other Legislation	Navigation and public safety within the harbour limits are also the responsibility of the Council as a harbour authority. The Council's Harbourmaster, under Harbour Bylaws, the Navigation Bylaw 2000, the Maritime Transport Act and associated Maritime Rules, (or any successor to the above bylaws or regulations) carries out these functions. Harbour bylaws may impose additional constraints on speed eg; the 5 knot harbour speed limit.

<p>Compliance and Enforcement</p>	<p>The Council will monitor the activity of ships in Queen Charlotte Sound and Tory Channel for compliance purposes to ensure that ships do not exceed permitted speed levels and also to monitor for compliance with individual consent conditions.</p>
<p>Monitoring</p>	<p>The Council will monitor the effect of ship-generated waves as part of its responsibilities for state of the environment monitoring. A monitoring framework and programme were established by the Council in collaboration with the Department of Conservation following the introduction of the fast ferries in late 1994. This framework will form the basis for ongoing monitoring and will be amended as may be appropriate over time. The monitoring framework includes:</p> <ul style="list-style-type: none"> • Near shore benthic and shoreline biological monitoring; • Shoreline monitoring of beach profiles; • Ongoing monitoring of land slip activity along the National Transportation Route; and • Periodic assessment of the community's views of the effects of ship generated wave activity in the Sounds. <p>Ship generated waves will also be measured and monitored from time to time.</p> <p>Monitoring of the effects of the impacts of waves generated by individual ships may also be a requirement imposed as conditions of resource consent for discretionary activity shipping activity.</p> <p>In addition, the Council will support Te Atiawa initiatives to monitor cultural, and ecological effects from the wake of ships eg; the effects on access to waahi tapu and other sites of significance, the passing of tikanga Maori to future generations and the effects on the gathering of kaimoana.</p> <p>The results of the monitoring may be used to assist in the review the overall framework for managing the effects of shipping activity, or where there is a need to review the conditions of resource consents.</p> <p>The results of monitoring will be made available for consideration of the Advisory Group.</p>
<p>Advisory Group</p>	<p>An advisory group will be established by the Council whose functions shall be to:</p> <ul style="list-style-type: none"> • Review available monitoring information from shipping operators and the Council and any other expert reports lodged with the Council with respect to the effects of shipping (including research carried out as part of the Council's state of the environment reporting).

	<ul style="list-style-type: none"> • Assist the Council in determining the optimal course of action for the future management of shipping in the Sounds. • Facilitate voluntary action to avoid, remedy or mitigate any unforeseen effects of shipping activity. • Seek input from another person (or persons), should the group consider it necessary, to provide advice relating to the above issues. Prior to seeking advice from such a person, the group must obtain approval from the Council if funding is needed. • Provide a manawhenua iwi perspective, in particular that of Te Atiawa, in managing the effects of shipping activity. <p>Members will be appointed by the Council and will include representatives from community groups, the shipping industry, iwi and the Council.</p>
Te Atiawa Partnership	<p>The Council will work in partnership with Te Atiawa on matters relating to:</p> <ul style="list-style-type: none"> • Emerging issues; • Environmental enhancement and protection projects; and • Monitoring <p>with regard to the operation of ships in Queen Charlotte Sound and Tory Channel.</p>

The methods enable ships to travel in the National Transportation Route and Queen Charlotte Sound subject to controls on speed and ship-generated wave energy. The methods do not restrict the use of surface water by ships elsewhere in the Sounds or smaller boats. Ships are able to exceed the permitted activity speed limit provided a resource consent is obtained for either controlled activity or discretionary activity depending on whether or not the vessel's wave energy exceeds the maximum wave energy standard. Existing conventional ships that were in operation at the time Variation 3 was included in the Plan (being 14 November 2002) are permitted to continue to travel in the National Transportation Route up to 20 knots maximum speed.

Monitoring will be important in the ongoing management of the effects of shipping activity. The Council intends to continue with and enhance its current monitoring as necessary. The type and extent of monitoring will be reviewed as the types of ships and level of shipping activity changes over time.

The Plan encourages all of the key stakeholders to assist in ultimately determining an appropriate approach to managing the effects of shipping in the future. The Advisory Group is intended to bring the key stakeholders together in the management of shipping issues.

9.6 Anticipated Environmental Results

Implementation of the policies and methods relating to the coastal marine issues will result in:

- Appropriate activities able to be undertaken within the coastal marine area;
- Efficient use being made of the coastal marine area;
- The recreational values of the coastal marine area maintained and enhanced;
- The adverse effects of occupation of coastal space avoided, remedied or mitigated to the fullest extent practicable;
- Conflicts between different activities in the coastal marine area being minimised to the fullest extent practicable;
- Only appropriate structures which are sensitive to the coastal environment being constructed;
- The avoidance of a proliferation of structures;
- A progressive improvement in water quality in areas which are presently degraded;
- The maintenance of water quality in the coastal marine area at a level which enables the gathering or cultivating of shellfish for human consumption;
- The adverse effects of alterations to the foreshore and seabed being avoided, remedied or mitigated; and
- The continuation of activities which do not significantly or adversely alter the foreshore or seabed.