

Tasman Resource Management Plan

# **Plan Change 72:**

# **Moorings and Coastal Structures**

**Report prepared to fulfil the requirements of Section 42A  
of the Resource Management Act 1991**

**May 2021**

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# 1.0 Introduction

## 1.1 Purpose of the Report

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This officer report is prepared under Section 42A of the Resource Management Act 1991 (RMA) and discusses matters raised in submissions on Proposed Plan Change 72- Moorings and Coastal Structures (Proposed Plan Change 72) and includes recommendations on those submission for the Hearing Panel.

Section 32AA of the RMA requires further evaluation by the Hearing Panel of any changes made to Proposed Plan Change 72 following consideration of the matters raised in the submissions. To the extent that changes are recommended in this report, further evaluation has been undertaken to support completion of a report under Section 32AA by the hearings panel.

Under Clause 10 of the First Schedule of the RMA Council is required to give reasons for its decisions on Proposed Plan Change 72. This report is also written to assist the Hearing Panel with drafting reasons for the decision.

## 1.2 Scale & Significance

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This report has been prepared with consideration of the scale and significance of the amendments requested in Proposed Plan Change 72.

Proposed Plan Change 72 roughly consist of two parts. The first part implements new policy and rules regarding moorings and coastal structures within the district. The second part updates and includes minor amendments to the existing plan text.

The majority of the minor amendments included in this plan change either update or better align the plan text with the New Zealand Policy Statement (NZCPS) and other legislative changes. It is beyond the scope of this plan change to address all the changes required to fully implement the NZCPS. Tasman District Council (TDC) acknowledged the requirement to give effect to the NZCPS and other legislative documents; however, while the substantive work required to give effect to those documents has commenced, it is still some time from being completed. Once the work is completed, the information and proposed planning framework will form part of the new combined Tasman Environment Plan (TEP). Notwithstanding imminent changes to the resource management legal framework, the Council is planning to notify the proposed plan in December 2024.

The changes proposed to the Tasman Resource Management Plan (TRMP) regarding the proposed mooring and coastal structure provisions have been given greater consideration in this Section 42A report than the minor amendments because the proposed changes affect the location and management of structures within the coastal marine area. The Section 32A report addresses the majority of the issues raised in the submissions to this plan change. The Section 32A report should be read in conjunction with this report.

The minor amendments proposed or requested to this plan change have been given less consideration within this Section 42A report. This reflects the minimal effect those changes have on the management of the coastal marine area.

The scale and significance of Proposed Plan Change 72 is considered relatively minor and this Section 42A report is in keeping with that assessment.

## 1.3 Report Overview

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The report addresses the following:

- **Part 1 – Introduction.** Introduces Proposed Plan Change 72 and provides background to the plan change and briefly covers the submissions made to it.
- **Part 2 – Discussion and Recommendations.** This section discusses and provides recommendations to the Hearings Panel regarding Proposed Plan Change 72 as a plan change and for the amendments sought in the submissions.

## 1.4 Background

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The proposed Tasman regional coastal plan was notified in 1995. Since then a number of issues within the coastal marine area have arisen and two significant documents which influence the management of the coastal marine area have been created—the Marine and Coastal Area (Takutai Moana) Act 2011 (MACA) and New Zealand Coastal Policy Statement 2010 (NZCPS). In the last few years the need to review the regional coastal plan has become even more pressing and a full review of the regional coastal plan commenced in 2019. It is anticipated that the regional coastal plan review will take a number of years and for that reason this Proposed Plan Change 72 is proposed ahead of the review. Proposed Plan Change 72 consists of the following components.

### Moorings Review

On 1 October 2011 the regional coastal plan became operative, forming part of the combined Tasman Resource Management Plan (TRMP). Following that date, most existing moorings required resource consent to continue occupying the Coastal Marine Area (CMA). By 2013 it became evident that the mooring provisions in the TRMP were not working well, with the majority of pre-existing moorings continuing as unauthorised structures. Council subsequently made the decision to undertake a review regarding the way moorings were managed. The initial findings were that there was:

- 1) conflict and tension in the management of swing moorings in high demand areas: and
- 2) that the current RMA processes were leading to inefficient use of space and overly-complex approval processes in some locations.

The initial moorings review also identified there were three key external documents, which had come into effect since the Plan was notified and these documents needed to be considered or addressed in the regional coastal plan. These documents were the Marine and Coastal Area (Takutai Moana) Act 2011 (MACA), New Zealand Coastal Policy Statement 2010 (NZCPS) and the Abel Tasman Foreshore Scenic Reserve Management Plan (2012). In 2013 Council also commenced the statutory review of the Tasman District Council Consolidated Bylaw – Chapter 5: Navigation and Safety Bylaw (2005) and the Bylaw review was considered to present an ideal opportunity to better align the way moorings were managed in the District under both sets of legislation.

In July 2013 the Environment and Planning Committee considered the moorings review report prepared by staff. A discussion document was prepared and circulated for public feedback in Jan-March 2014. The public were consulted on two options:

- Option 1: Create new mooring areas, with combined TRMP and Bylaw Changes; or
- Option 2: Retain existing system in the TRMP.

A total of 67 responses were received. There was general support for Option 1 over Option 2 (Status Quo). The decision was made on the 22 May 2014 to proceed with the drafting of a plan change and bylaw, taking into consideration the additional matters raised in the consultation.

During the drafting of the plan change and bylaw a number of additional matters were identified, including the need for new policy and rules providing for the removal of unauthorised coastal structures. There were delays to the review process and it wasn't until 2019 that the draft plan change and bylaw was completed and approved by Council for public feedback. The draft plan change and bylaw were approved on 18 April 2019 and circulated in July 2019. A total of 59 responses were received and further changes were made to the draft plan change and bylaw. In February 2020 the Council made the decision to publicly notify the proposed plan change and bylaw.

The key components of the proposed plan change are summarised as follows:

1. Establishment of appropriately located Mooring Areas at Mapua, Motueka, Tapu Bay, Stephens Bay, Kaiteriteri, Otuwhero Inlet (Marahau), Torrent Bay, Boundary Bay, Milnthorpe and Mangarakau Wharf.
2. A new policy protecting the Mooring Areas from the adverse effects of other coastal activities.
3. Minimisation of space used for moorings by providing appropriate areas, enabling management within, and encouraging public moorings.
4. Requiring the removal of unauthorised, abandoned or redundant structures affecting natural character, habitats and ecosystems, natural features and public access, except where the removal would have adverse effects, including on historic heritage.
5. Encouraging moorings to locate in appropriately located Mooring Areas.
6. Amendments to the existing policy for Kaiteriteri regarding the number of structures within the Bay.
7. Amendments to the public access policy.
8. A new policy supporting public and multi-use structures and public access in the coastal marine area.
9. Providing for the maintenance, repair or replacement of existing structures (relating to craft).
10. A new rule providing for moorings in Mooring Areas as permitted activities subject to conditions being met and the mooring owner holding a Mooring Licence issued by the Harbourmaster under a Mooring Area Bylaw.
11. Requiring owners of permitted activity structures to provide contact details.
12. Requiring structures be maintained free from any pest or pest agent.
13. Continuing to provide for moorings in locations outside of Mooring Areas as a discretionary activity.
14. A new rule permitting the removal of coastal structures, subject to conditions.
15. A new rule permitting a discharge from structures being removed, subject to conditions.
16. Amendments to Schedule 25A (Permitted Coastal Structures) deleting some structures from the list and including additional structures as permitted activities.

## **1.5 Plan Change Process**

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On 27 February 2020, the Strategy and Policy Committee recommended that Proposed Plan Change 72 be notified. The proposed wording is provided in Appendix 1 of this report (under separate cover).

On the 20 June 2020, Proposed Plan Change 72 was publicly notified with submissions closing on the 27 July 2020. Twenty submissions were received.

The summary of decisions sought was publicly notified on the 7 November 2020 with the further submission period closing on the 23 November 2020. One further submission was received from the Minister of Conservation regarding the submission by the Marine Farming Association. A copy of the submissions and further submission can be found in Appendix 2 (under separate cover).

Part 2 of this report discusses the submissions and includes recommendations regarding the decisions sought.

A copy of the changes recommended in this report can be found in Appendix 3.

## 2.0 Evaluation of Submissions and Recommendations

### 2.1 Introduction

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This section divides the issues raised in the submissions into separate topics and then discusses the matters raised in each topic and provides recommendations to the Hearing Panel. The first topic discusses the plan change as a whole and recommends the approval of the plan change subject to any changes arising from the subsequent topics' discussions.

### 2.2 Topic 1: Proposed Plan Change 72

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This topic discusses and considers Proposed Plan Change 72 as a whole. The following submissions were received in support, support in part, oppose in part provisions in the proposed plan change.

- (2852.1) Riley, Trevor  
*"Support the Plan Change and seek its retention in its entirety"*.
- (3495.1) Nelson Pine Industries Ltd  
*"Support the Plan Change and seek its retention in its entirety"*
- (4179.1) Marine Farming Association  
*"Support the plan changes"*
- (4168.1) Rutledge, Chris  
*"Support the Plan Change and seek its retention in its entirety"*
- (327.1) Golden Bay Marine Farmers Consortium Ltd  
*"Oppose in part and seek amendments"*
- (4127.1) Conservation, Minister of  
*"Retain the provisions of the plan change with the amendments outlined in the submission"*.
- (4167.2) Mosley, Michael Paul - 20.1.3.2B  
*Supported*
- (1050.21) Friends of Nelson Haven & Tasman Bay - 21.2.3.15  
*Support/retain*
- (849.2) Heritage New Zealand - 21.2.3.6  
*Support*
- (1050.2) Friends of Nelson Haven & Tasman Bay.  
*Support – consistent and sustainable design of mooring structures.*

The following general requests are not discussed in any other topic and are discussed below.

- **(1050.4) Friends of Nelson Haven & Tasman Bay** - Acknowledge that in order to give effect to the NZCPS 2010, areas that require recognition of various attributes will need to be identified in the TRMP. Until these areas are identified, and appropriate overlays included in the Plan it cannot be regarded as "strategic" as required by Policy 7 in that it has not identified areas where the activities being considered in this plan change may be inappropriate. Thus, a precautionary approach in relation to these areas must be taken.
- **(2971.1) Torrent Bay Township Committee**
  - Favour the majority of the changes.

- Moorings and structures should be legalized and consented.
- Mooring and structure owners should be identified
- Unconsented mooring owners should have the opportunity to legalize them.
- If the opportunity is not taken, then unconsented moorings and structures should be removed
- **(4173.2) Patrick, Mike** - Unless required for safety reasons, the public should have reasonable access to any wharf, jetty etc.

## Discussion

(1050.4) Friends of Nelson Haven & Tasman Bay - request that to give effect to the NZCPS 2010, areas that require recognition of various attributes will need to be identified in the TRMP. Until these areas are identified, and appropriate overlays included in the Plan it cannot be regarded as “strategic” as required by Policy 7 of the NZCPS in that it has not identified areas where the activities being considered in this plan change may be inappropriate. Thus, a precautionary approach in relation to these areas must be taken.

The information requested for inclusion and consideration to give effect to the NZCPS have been commissioned and will be incorporated in to the TEP along with a full planning framework to give effect to the NZCPS. A strategic planning evaluation has been carried out based on the information held or commissioned by Council. Based on those assessments Council reached the conclusion that the Mooring Areas were appropriate activities for the locations proposed. It is accepted that the Council needs to give effect to the NZCPS and that a precautionary approach should be taken in the absence of sufficient information. In this instance significant information was gathered and it is considered that the effects of the activity are well understood, particularly for those areas that have been used for mooring for a significant length of time. Should information subsequently become available that deems the use of the areas or mooring as inappropriate then the mooring area boundaries can be amended or the area removed through the plan review. Recommendation: No change.

(2971.1) Torrent Bay Township Committee - states the following in its request.

- Favour most of the changes.
- Moorings and structures should be legalized and consented.
- Mooring and structure owners should be identified
- Unconsented mooring owners should have the opportunity to legalize them.
- If the opportunity is not taken, then unconsented moorings and structures should be removed

The request supports provisions in the TRMP and in Proposed Plan Change 72, this support is accepted. Recommendation: No change.

(4173.2) Patrick, Mike - requests that unless required for safety reasons, the public shall have reasonable access to any wharf, jetty etc.

There is a general premise for public access to and along the coastal marine area and the public should have access to all wharves and jetties within Tasman, unless there are specific safety issues e.g. the structure is in disrepair. Recommendation, Accept, No change.

## Recommendation

That Proposed Plan Change 72 be approved in part, subject to any modifications arising from Topics 2.3 – 2.27 of this report.

## 2.3 Topic 2: 2.2 Defined Words

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This topic discusses and considers seven requests for amendments or the inclusion of new definitions to clarify the meaning of words used in the TRMP. There was one further submission in support of a request.

The requests are summarised as follows:

**(1050.5) Friends of Nelson Haven & Tasman Bay**

Include water-based activities in meaning [Commercial Activity]

**Reason:** Needs to include water-based activities

**(4166.1) Golden & Tasman Bays Ring Road Farming et al.**

“Craft” is not defined and thus it is not clear whether it applies to all contrivances using the water surface, does it extend to rafts or other structures.

**Reason:** Could as written include marine farming vessels temporarily “moored” while harvesting, or vessels dropping off passengers such as walkers in the National Park.

**(327.2) Golden Bay Marine Farmers Consortium Ltd**

Provide a clear definition for “craft”. OR Include marine farming vessels temporarily “moored” while harvesting, or vessels dropping off passengers such as walkers in the National Park.

**(327.4) Golden Bay Marine Farmers Consortium Ltd.**

Add the following definition

“Mooring” means any weight or article placed in or on the foreshore or the bed of a waterway or in the Coastal Marine Area for the purpose of securing a vessel, raft, watercraft, aircraft or floating structure and includes any wire, rope, chain, buoy or other devices attached or connected to the weight. “Mooring” may include a system of weights and attachments for the same purpose but does not include an anchor that is normally removed with the vessel, raft, water craft, air craft or floating structure, and does not include any rafts, floating structures, anchors, weights, rope, chains or buoys or other devices connected to the Buoy which form part of an aquaculture operation, which are authorised by a Coastal Permit issued under the provision of the Tasman Resource Management Plan or the Resource Management Act 1991.

**Reason:** There is no definition and the definition of “mooring” and rules could inadvertently impact on marine farming and spat catching

**(4179.3) Marine Farming Association**

“That “mooring” be added to the defined words and it be made abundantly clear that a “mooring” is not a marine farm anchor or any other component part of marine farm infrastructure.”

**(4127.2) Minister of Conservation – Further Submission** – support. Amending the definition of mooring to exclude a marine farm anchor or any other component of marine farm infrastructure provides plan certainty.

**(4173.1) Patrick, Mike**

Define “maintenance” [of structures] to specifically exclude maintenance dredging.

**Reason:** The maintenance of a wharf or jetty or like any other structure does not include what is known as maintenance dredging of the berthage basin and/or any access channel to it.

**(4169.1) Sanford Ltd**

Exclude from the Plan Change moorings associated with aquaculture activities.

## Discussion

(1050.5) Friends of Nelson Haven & Tasman Bay requests that “water-based activities” be included in the definition of “Commercial Activity”.

See as follows [Note: an interpretation has been made regarding the wording requested]:

Commercial activity – means the use of land and buildings for the primary purpose of display, offering, provision or the sale or hire of goods, equipment or services. A commercial activity includes <a href="#">water-based</a>
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activities, shops, markets, showrooms, restaurants, takeaway food bars, professional, commercial and administrative offices, service stations, motor vehicle sales, tourist accommodation, the sale of liquor and associated parking areas, but excludes community activities and home occupations.

The current wording for “Commercial Activities” refers to the use of land and buildings and then goes on to list activities which occur almost exclusively on land. In drafting the provisions for Proposed Plan Change 72 the decision was made to use a separate definition (“Commercial Operations”) for commercial activities occurring within the Mooring Areas. See below

Commercial operations – in relation to Mooring Areas means the use of a craft for commercial activities, but does not include activities that are auxiliary to commercial activities undertaken outside of the Mooring Area, e.g., cleaning and maintenance.

The effect of including a separate definition for commercial operations under the Rules is to restrict commercial activities within the Mooring Areas. The rules enable tourist boats to be washed down at the end of the day etc. within the Mooring Area, but other commercial activities like accommodation is excluded. If the current wording for Commercial Activities was extended to include “water-based activities”, as requested, then the change is likely to capture other water-based activities with a commercial component outside of the coastal marine area e.g., white water rafting. The effect of the change sought is beyond the scope of Proposed Plan Change 72. Recommendation – no change. However, the request does identify a shortfall in provisions within the TRMP regarding the regulation of commercial activities on the surface of freshwater bodies and the activity should be addressed through plan review.

(327.2) Golden Bay Marine Farmers Consortium Ltd requests the inclusion of a definition for “craft” so that the use of the word craft does not capture vessels temporarily moored or harvesting. (327.2) also requests a definition for “Mooring” following concerns that the rules could inadvertently impact on marine farming and spat catching. For similar reasons (4166.1), (4179. 3) & (4169.1) also seek a definition for “mooring” that makes it clear that a “mooring” does not capture a marine farm anchor or any other component part of marine farm infrastructure. A new definition for mooring is provided in the submissions.

“Craft” is already defined in the TRMP (see below), the definition exists but was not included in Proposed Plan Change 72 for reasons of brevity. The current definition is as follows:

**Craft** – refer to definition of ‘Ship’.

The definition for “Craft” refers to “ship” which is also defined in the TRMP and included as follows.

**Ship** – means every description of boat or craft used in navigation, whether or not it has any means of propulsion; and includes a jetski; a windsurfer or kayak; a barge, lighter, or other like vessel; a hovercraft; and a submarine or other submersible.

Under the current TRMP definition for “craft” rafts and other contrivances are captured as suggested by the requestor, however under the Marine and Coastal Area Act (Takutai Moana) 2011 there are general rights of use (s26-28) for the CMA and unless the rafts are stationary for a number of weeks, then they are not considered to be an occupation under the RMA and do not require consent. General activities such as anchoring, embarking, disembarking, etc., are not affected by Proposed Plan Change 72 and for that reason no change is recommended.

Regarding the requests for a definition of “mooring” which excludes marine farming activities, (327.4) proposes the following definition:

“Mooring means any weight or article placed in or on the foreshore or the bed of a waterway or in the Coastal Marine Area for the purpose of securing a vessel, raft, water craft, air craft or

floating structure and includes any wire, rope, chain, buoy or other devices attached or connected to the weight. "Mooring" may include a system of weights and attachments for the same purpose but does not include an anchor that is normally removed with the vessel, raft, water craft, air craft or floating structure, and does not include any rafts, floating structures, anchors, weights, rope, chains or buoys or other devices connected to the Buoy which form part of an aquaculture operation, which are authorised by a Coastal Permit issued under the provision of the Tasman Resource Management Plan or the Resource Management Act 1991"

Requests (327.2), (4166.1), (4179.3) and (4169.1) also seek the inclusion of a definition for "mooring", which explicitly excluded marine farming structures and activities.

Aquaculture may only occur within aquaculture management areas (AMA's) and Wainui Bay (see 25.1.4.7). Aquaculture is prohibited outside of these areas and within AMA's there is provisions specifically providing for marine farming structures etc. Regarding the matters raised farming structures cannot occur outside of AMA's e.g., within a mooring area. Activities such as anchoring, embarking, disembarking by marine farming vessels are also not affected by Proposed Plan Change 72 with these activities provided for in the Marine and Coastal Area Act (Takutai Moanna) 2011 as permitted activities. For these reasons, no change to the definition is considered necessary. Recommendation: no change.

(4173.1) requests "maintenance" [of structures] be defined to specifically exclude maintenance dredging. The following provisions are proposed in Proposed Plan Change 72:

#### **25.1.2.1 Permitted Activities (Structures Relating to Craft)**

Any structure for the launching, haulout, mooring, berthage, or storage of craft, including launching ramps, slipways, swing or pile moorings, jetties, or boatsheds is a permitted activity that may be undertaken without a resource consent, if it complies with the following conditions:

(d) The activity is the maintenance, repair or replacement of the structure and meets the following conditions (except mooring within a Mooring Area):

(i) There is no change in the character, intensity or scale of the structure.

(ii) There is no change in the location of the structure.

(iii) The materials used are similar or the same as previously used for the structure.

The TRMP and RMA defines "structure" as the following.

"Structure – means any building, equipment, device, or other facility made by people and which is fixed to land; and includes any raft."

The provisions proposed for 25.1.2.1 only permit the maintenance of the structures and does not extend to auxiliary activities like maintenance dredging. There are separate policies and rules in the TRMP controlling maintenance dredging in chapters 35-36 of the TRMP. While it would be helpful to make it clear to structure owners that "maintenance" does not extend to dredging, there are currently sufficient provisions in place to manage dredging, should it be undertaken. The issue is acknowledged, but no change is recommended. Reconsideration of this issue should be undertaken during plan review.

#### **Recommendation**

(1050.5), (327.2), (327.4), (4166.1), (4179. 3), (4169.1) (4179.3) & (4173.1) – No change

## 2.4 Topic 3: 20.1.3.2A – Minimisation of Moored Craft Occupation

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This topic discusses and considers four requests regarding proposed policy 20.1.3.2A (see below). Two requests support the policy, and two requests seek amendment to the wording.

[20.1.3.2A To minimise the occupation of the surface of coastal waters by moored and anchored craft by:](#)  
[\(a\) providing Mooring Areas in appropriate locations and encouraging the use of moorings within these areas as permitted activities;](#)  
[\(b\) encouraging the establishment and use of public moorings in appropriate locations;](#)  
[\(c\) requiring the use of space efficient mooring systems where practicable and appropriate.](#)

The submissions are summarised as follows:

**(1050.3) Friends of Nelson Haven & Tasman Bay**

Support.

**Reason:** Support wherever possible the establishment of public moorings

**(1050.6) Friends of Nelson Haven & Tasman Bay**

20.1.3.2A(b) Make efficient use of public space

**Reason:** Establishment of public moorings

**(1050.7) Friends of Nelson Haven & Tasman Bay**

20.1.3.2A(c) Reword

**Reason:** Unclear wording

**(4167.1) Mosley, Michael Paul**

Support.

### Discussion

(1050.3) & (4167.1) the support for the policy is accepted.

Regarding the requests (1050.6) and (1050.7), further details are required as it is unclear what is being requested, or the reasons for the request.

### Recommendation

(1050.3) (4167.1) – Accept, pending the decision on (1050.6 & 1050.7)

(1050.7) & (1050.6) - No recommendation

## 2.5 Topic 4: 20.1.3.2C Interference with Mooring Activities

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This topic discusses and considers one request (4167.4) which opposes proposed policy 20.1.3.2C (see below), or alternatively seeks amendments to the text.

[20.1.3.2C To avoid activities within Mooring Areas where the activity will interfere with the use or management of moorings within the Mooring Areas.](#)

The request is summarised as follows:

**(4167.4) Mosley, Michael Paul**

Opposed – delete in its entirety or amend to make it clear that uses of the water body are not to be excluded.

**Reason:** Could be used to prohibit all other users of the area and thereby give absolute priority to moorings. It is quite inappropriate to favour the interests of a small number of boat owners above the interests of the general public.

## Discussion

The purpose of this policy is to prevent the establishment of other coastal activities/occupancies within the Mooring Areas which could affect the use of the Mooring Area, for example, jetties and swim platforms could interfere with swing circles. The requestor is correct in that the effect of the policy is to prevent other activities establishing within the Mooring Area, however, it is considered that there is sufficient space outside of the Mooring Areas to accommodate for those activities. The establishment of the Mooring Areas is likely to reduce the amount of area occupied by moorings in the long-term with the removal or relocation of several hundred illegal moorings anticipated. Regarding other activities within the Mooring Areas, temporary or occasional activities such as swimming, boating (including races) are not affected by this policy and are provided for under the MACA Act.

## Recommendation

(4167.4) – No change

## 2.6 Topic 5: 20.1.3.2D – Effects of Granting New or Existing Permits

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This topic discusses and considers two requests (4167.4) & (1050.8) which support new policy 20.1.3.2D (see below) and seek an amendment to the text.

[20.1.3.2D To avoid the adverse effects on the efficient use of coastal space within a Mooring Area arising from granting new or re-consenting existing coastal permits for moorings.](#)

The requests are summarised as follows:

**(1050.8) Friends of Nelson Haven & Tasman Bay**

Insert the word “of” before the word “existing”.

**Reason:** Missing word

**(4167.3) Mosley, Michael Paul**

Supported.

## Discussion

(4167.3) - Support accepted

(1050.8) - Requests the following text change.

[20.1.3.2D To avoid the adverse effects on the efficient use of coastal space within a Mooring Area arising from granting new or re-consenting \*\*of\*\* existing coastal permits for moorings.](#)

Recommend the change be accepted.

## Recommendation

(4167.3) - Accept

(1050.8) – Amend as follows:

[20.1.3.2D To avoid the adverse effects on the efficient use of coastal space within a Mooring Area arising from granting new or re-consenting of existing coastal permits for moorings.](#)

## 2.7 Topic 6: 20.1.20 Regulatory Methods

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This topic discusses and considers four requests (1050.9) (327.3) (4179.4) & (529.1) regarding the Methods of Implementation 20.1.20.1 (see below). Two requests seek changes to the wording and the third requests additional text. There is one further submission in support of (4179.4).

### 20.1.20.1 Regulatory

(a) Rules that regulate construction and operation of structures in the coastal marine area...

[\(fa\) Bylaw provisions which manage the allocation of space and use of moorings within Mooring Areas.](#)

The requests are summarised as follows:

#### **(1050.9) Friends of Nelson Haven & Tasman Bay**

20.1.20.1(fa) Insert the word “design” after the word “space”

**Reason:** The design of moorings should be included in bylaw.

#### **(327.3) Golden Bay Marine Farmers Consortium Ltd**

20.1.20.1(a) Amend “rules that regulate construction and operation of structures in the coastal marine area” to: Rules that regulate construction and operation of structures in the coastal marine area relating to craft.

**Reason:** Given the changes to 25.2.1 and 25.1.2.3 text this should refer as above, so as to distinguish from marine farming and spat catching structures and their operation.

#### **(529.1) Motueka Yacht & Cruising Club**

Recognise existing use in particular of the Motueka and Otuwhero Inlet-Marahau estuaries for small boat sailing by ensuring the regulatory methods do not restrict the current public uses of a Mooring Area.

#### **(4179.4) Marine Farming Association**

That a schedule for periodic surveying of Mooring Areas for marine pests be developed in conjunction with the Top of the South Biosecurity Partnership.

- **(4127.3) Minister of Conservation - Further Submission** – Support. Including, in the Implementation Section of this plan, a requirement to periodically survey mooring areas for marine pests in conjunction with Top of the South Biosecurity Partnership would implement Policy 12 New Zealand Coastal Policy Statement 2010.

## Discussion

(1050.9) requests the insertion of the word “design” after the word “space” as shown below. The request better describes the scope of the matters covered by the Bylaw and would be an improvement, with minor effect. Recommend the change requested be accepted.

[\(fa\) Bylaw provisions which manage the allocation of space, design and use of moorings within Mooring Areas.](#)

(327.3) requests an amendment to 20.1.20.1(a) which is shown below with the requested amendment. Section 20.1.20.1(a) is not amended by Proposed Plan Change 72.

### 20.1.20.1 Regulatory

(a) Rules that regulate construction and operation of structures in the coastal marine area relating to craft.

The requested text change would improve the readability; however, this request is beyond the scope of Proposed Plan Change 72. Recommend: no change, but review through the plan review.

(529.1) requests that the methods recognise existing use in particular for the Motueka 2 and Otuwhero Inlet-Marahau estuaries for small boat sailing by ensuring the regulatory methods do not restrict the current public uses of a Mooring Area. The Methods of Implementation section is a summary of both regulatory and non-regulatory methods proposed to achieve the objectives. Inclusion of a new regulatory method in this section has no direct effect on activities other than to indicate what changes will be made in the future or to reflect a regulatory change made elsewhere in the section. The appropriateness and location of the Motueka 2 Mooring Area is primarily discussed in Topic 26 (529.1) and depending on the outcome of that request (529.1) this request should be either accepted or declined.

**Recommendation:** No recommendation, pending the decision on (529.1).

(4179.4) requests that a schedule for periodic surveying of Mooring Areas for marine pests be developed in conjunction with the Top of the South Biosecurity Partnership.

- 4127 - Further Submission – Support. Including, in the Implementation Section of this plan, a requirement to periodically survey mooring areas for marine pests in conjunction with Top of the South Biosecurity Partnership would implement Policy 12 New Zealand Coastal Policy Statement 2010.

Periodic surveys of the CMA for marine pests already occurs, largely dependent on need and the availability of funds. New Rule 25.1.2.1(f) requires a structure is keep free of any pest or pest agent declared under the Biosecurity Act 1993. The inclusion of a method of implementation supporting periodic surveys will helps ensure that Mooring Areas are kept free of marine pests as well as help give effect to Policy 12 of the NZCPS. Recommend the following text be added:

[20.1.20.2\(#\) Periodic surveys of Mooring Areas be undertaken for marine pests in conjunction with the Top of the South Biosecurity Partnership.](#)

### Recommendation

(1050.9) – Accept. Insert the word “design” after the word “space” in 20.1.20.1(fa)

(327.3) - No change

(529.1) - No recommendation pending the decision on (529.1).

(4179.4) – Accept. Insert the following new method:

[20.1.20.2\(#\) Periodic surveys of Mooring Areas be undertaken for marine pests in conjunction with the Top of the South Biosecurity Partnership.](#)

## 2.8 Issue 7: Chapter 21 Effects on Coastal Marine conservation, Heritage, Access and Amenity Values

This topic discusses and considers request (1050.10) regarding the Chapter 21 heading.

The request is summarised as follows:

### **(1050.10) Friends of Nelson Haven & Tasman Bay**

Amend heading to include “Natural Character, Natural Landscapes, Seascapes and Features, and Biodiversity”.

**Reason:** Support new wording in general, however, acknowledgement is needed that redundant structures cause environmental and aesthetic impacts.

## Discussion

The request (1050.10) is for additional wording to be added to the heading, the request has been interpreted as follows:

“Effects of Disturbance, Structures and Occupation on Coastal Marine, Conservation, Heritage, Access and Amenity Values, Natural Character, Natural Landscapes, Seascapes and Features, and Biodiversity.”

The reason given for the request is to acknowledge that redundant structures can cause environmental and aesthetic impacts. The change requested affects text that does not form part of Proposed Plan Change 72. The changes proposed for the Chapter heading have no legal impact on the interpretation or application of the provisions within the chapter and to that extent have no effect other than to perhaps aid the reader in understanding the scope of the chapter. The heading could be improved, including a reduction in length, but at this point in time it is recommended that the heading be reconsidered through the plan review.

## Recommendation

(1050.10) – No change

## 2.9 Issue 8: 21.0 Introduction

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This topic discusses and considers two requests (1050.11) & (4167.5) regarding Chapter 21.0 Introduction. Both requests support the new wording, and one (1050.11) request seeks to amend the wording.

The requests are summarised as follows:

**(1050.11) Friends of Nelson Haven & Tasman Bay**

Support the new wording.

Insert the words “and reduces environmental and aesthetic impacts” after “for other users.

**Reason:** Support the new wording in general, however acknowledgement is needed that redundant structures cause environmental and aesthetic impacts.

**(4167.5) Mosley, Michael Paul**

Support

## Discussion

The support (4167.5) for the proposed wording is accepted.

With regard to the request (1050.11) for additional wording, the following is requested.

“The coast is a finite resource and the New Zealand Coastal Policy Statement 2010 recognises and promotes the efficient use of the coastal environment. Consolidating activities into areas, encouraging multiple and public structures and requiring developments to occur without lengthy delays are some ways in which efficient use can be made of the coast environment. The removal of abandoned or redundant structures also frees up the coast for other users and reduces environmental and aesthetic impacts.”

The requested wording improves the proposed new wording and for this reason the recommendation is to accept the request.

## Recommendation

(4167.5) - Support is accepted.

(1050.11) – Accept. Amend Introduction 21.0 as follows:

*“The coast is a finite resource and the New Zealand Coastal Policy Statement 2010 recognises and promotes the efficient use of the coastal environment. Consolidating activities into areas, encouraging multiple and public structures and requiring developments to occur without lengthy delays are some ways in which efficient use can be made of the coast environment. The removal of abandoned or redundant structures also frees up the coast for other users and reduces environmental and aesthetic impacts.”*

## 2.10 Issue 9: 21.1.3 Natural Character Policies

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This topic discusses and considers seven requests (1050.15), (1050.12), (1050.13), (1050.1), (849.1), (4167.6) & (4167.7) for the natural character policies. Five requests support the proposed policies and there is one request for an amendment to the text, and one request for a new policy.

The requests are summarised as follows:

### **(1050.15) Friends of Nelson Haven & Tasman Bay**

21.1.3.# Add a new policy: “To protect natural character by identifying areas of at least high natural character and mapping accordingly shown by overlay mapping in the Plan.

**Reason:** No reference is made to the requirements of NZCPS Policy 13.

### **(1050.12) Friends of Nelson Haven & Tasman Bay**

21.1.3.4 Amend – replace “coastal marine animals and plants” with “coastal and marine fauna and flora”.

**Reason:** “Coastal marine animals and plants” is clumsy.

### **(849.1) Heritage New Zealand**

21.1.3.5 Support – No change

### **(1050.13) Friends of Nelson Haven & Tasman Bay**

21.1.3.5 Supported

### **(4167.6) Mosley, Michael Paul**

21.1.3.5 Supported

### **(4167.7) Mosley, Michael Paul**

21.1.3.6 Supported

### **(1050.14) Friends of Nelson Haven & Tasman Bay**

21.1.3.6 Supported

## Discussion

(1050.13), (1050.14), (849.1), (4167.6) & (4167.7) Support is accepted.

Submission (1050.15) requests the following new policy be added to 21.1.3 as there is no reference made to the requirements of NZCPS Policy 13.

*21.1.3.# To protect natural character by identifying areas of at least high natural character and mapping accordingly shown by overlay mapping in the Plan.*



Tasman District Council has undertaken a natural character study for the district and the draft document identifies areas of high, very high and areas of outstanding natural character. Consultation on the draft natural character study has commenced and once finalised the information will be incorporated with supporting planning provisions into the TEP. It is acknowledged that the Council needs to give effect to Policy 13 of the NZCPS, however, it will take some time for the mapped areas to be complete and for this reason the “overlay mapping” will only be included in the TEP where full effect will be given to the NZCPS. In addition, the proposed policy covers a matter of process that is covered by the NZCPS. To include the policy would only duplicate the requirement under policy 13 of the NZCPS and not add anything.  
Recommendation: No change and reconsider through plan review.

Submission (1050.12) requests the following amendment to improve the wording:

21.1.3.4 To avoid, remedy, or mitigate damage to foreshore, seabed and ~~coastal marine animals and plants~~ coastal and marine fauna and flora, caused by the passage of people, vehicles, vessels, or passage or grazing by stock.

Policy 21.1.3.4 does not form part of Proposed Plan Change 72 and is only shown in the plan change to provide context to the new policies proposed in the plan change. It is acknowledged that the current wording is relatively clumsy and could be improved. However, for the reason that Policy 21.1.3.4 does not form part of Proposed Plan Change 72, it is recommended that the requested change be noted for plan review, but no change be made.

### **Recommendation**

(1050.13), (1050.14), (849.1), (4167.6) & (4167.7) – Support accepted. No change.

(1050.15) – No change

(1050.12) – No change

## **2.11 Issue 12: 21.1.20.1 Regulatory Methods**

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This topic discusses and considers five requests (1050.16, 1050.17, 1050.18, 4167.8 & 4167.9). Four requests support the proposed methods, and one requests an additional method.

The requests are summarised as follows:

**(1050.16) Friends of Nelson Haven & Tasman Bay**

21.1.20.1(d) Support

**(1050.18) Friends of Nelson Haven & Tasman Bay**

Add “(a) Rules that avoid adverse effects of structures including moorings in areas of Outstanding Natural Character identified by overlays in the Plan.” Renumber and retain.

**Reason:** To support the requested changes for 21.1.20.1 & 2

**(4167.8) Mosley, Michael Paul**

21.1.20.1(d) Supported

**(1050.17) Friends of Nelson Haven & Tasman Bay**

21.1.20.1(e) Support

**(4167.9) Mosley, Michael Paul**

21.1.20.1(e) Supported

## Discussion

The requests (1050.16), (4167.8), (1050.17) & (4167.9) in support are accepted.

(1050.18) requests the addition of the following new method to reflect the changes requested for 21.1.20.1 & 2 and, as a consequential amendment, renumber 21.1.20.1:

[21.1.20.1\(#\) Rules that avoid adverse effects of structures including moorings in areas of Outstanding Natural Character identified by overlays in the Plan.](#)

TDC has undertaken a natural character study for the district and the draft document identifies areas of high, very high and areas of outstanding natural character. Consultation on the draft natural character study has commenced and the decision has been made to incorporate the mapped areas and supporting planning provisions for natural character into the TEP. It is acknowledged that TDC needs to give effect to Policy 13 of the NZCPS, however, it will take some time for the mapped areas to be complete and for this reason the “overlay mapping” will only be included in the TEP where full effect will be given to the NZCPS. In addition, the proposed policy covers a matter of process that is covered by the NZCPS. To include the policy would only duplicate the requirement under policy 13 of the NZCPS and not add anything.

**Recommendation:** No change and reconsider through plan review.

## Recommendation

(1050.16), (1050.17), (4167.8) & (4167.9) – Accept. No change  
1050.18 – No change

-

## 2.12 Topic 11: 21.2 Protection of Habitats and Ecosystems

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This topic discusses and considers four requests (1050.19, 1050.20, 1050.24 and 4167.10). One request is in support and three requests are for amendments.

The requests are summarised as follows:

### **(1050.19) Friends of Nelson Haven & Tasman Bay**

Amend heading to add: “including Ingenious Biological Diversity (biodiversity)”

**Reason:** The heading of this chapter needs to be altered to include Biodiversity.

### **(1050.20) Friends of Nelson Haven & Tasman Bay**

Insert new objective: “(#) To ensure effects of moorings (and other structures) on areas of significant biodiversity are avoided” Renumber objectives accordingly.

**Reason:** Add new objective to ensure avoidance of adverse effects on indigenous biological diversity.

### **(1050.24) Friends of Nelson Haven & Tasman Bay**

Insert new policy “To protect indigenous biodiversity by avoiding adverse effects on (list Policy 11(a) NZCPS) shown by overlay mapping in the Plan”.

**Reason:** Add new policy to ensure avoidance of adverse effects on indigenous biological diversity.

### **(4167.10) Mosley, Michael Paul**

Supported

## Discussion

Request (4167.10) support is accepted

(1050.19) requests that the heading text be amended to include the following words “including Ingenious Biological Diversity (biodiversity)”. The reason given is that the heading of the chapter needs to be altered to include Biodiversity. It is acknowledged that the heading would potentially be improved by adding the requested words, however, amending the heading has no regulatory effect and does not provide any physical benefit.

**Recommendation:** No change. The heading should be reviewed through plan review.

Submissions (1050.20) and (1050.24) requests the following new policy (adapted from NZCPS policy 11(a)) be included in section 21.2.#, under the following new objective.

*Objective 21.2.3 To ensure effects of moorings (and other structures) on areas of significant biodiversity are avoided.*

*Policy 21.2.# To protect indigenous biological diversity by avoiding adverse effects of activities on:*

- (i) indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists;*
  - (ii) taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;*
  - (iii) indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare<sup>16</sup>;*
  - (iv) habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;*
  - (v) areas containing nationally significant examples of indigenous community types; and*
  - (vi) areas set aside for full or partial protection of indigenous biological diversity under other legislation*
- shown by overlay mapping in the Plan.*

Tasman District Council is in the preliminary stages of gathering information on significant indigenous biodiversity values and once that investigation is completed the effects of activities on those values will be evaluated and a policy response drafted. The work will be modelled on the process recently used by the Marlborough District Council and will give effect to Policy 11 of the NZCPS (Indigenous biological diversity). The scheduled indigenous biodiversity assessment and maps is likely to take some years to complete and the decision has been made to include the maps and policy provisions in the TEP. For that reason, it is recommended that the requested wording (1050.24) referring to overlay mapping in the plan should be declined. The remaining wording in the requested objective and policy does give effect to Policy 11 and the TRMP would benefit from the inclusion of the requested wording. The following wording could be considered.

### **21.2.2 Objective**

*Avoidance, remediation, or mitigation of adverse effects on marine habitats and ecosystems caused by:*

- (a) access by vessels, vehicles, people, or animals;*
  - (b) the introduction of species non-indigenous to the District;*
  - (c) disturbance of the foreshore or seabed;*
  - (d) the placement and use of structures for port, berthage, aquaculture, network utilities, roads, mineral extraction or any other purpose;*
  - (e) the disposal of contaminants or waste, or accidental spillage of substances;*
- with priority for avoidance in those areas having nationally or internationally important natural ecosystem and indigenous biodiversity values.*

### 21.2.3 Policies

Policy 21.2.3.# To protect indigenous biological diversity by avoiding adverse effects of activities on:

- (i) indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists;
- (ii) taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;
- (iii) indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare<sup>6</sup>;
- (iv) habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;
- (v) areas containing nationally significant examples of indigenous community types; and
- (vi) areas set aside for full or partial protection of indigenous biological diversity under other legislation

However, there is overlap between the proposed wording (above) and policy 21.2.3.3(c) and a degree of conflict between the two with policy 21.2.3.3(c) providing for the remedying or mitigation of adverse effects and the proposed new policy requiring avoidance.

21.2.3.3 To avoid, remedy or mitigate adverse effects of structures or works in the coastal marine area, for any purpose, on:  
...  
(c) coastal habitats and ecosystems, particularly those supporting rare or endangered indigenous or migratory species, or nationally or internationally significant natural ecosystems;

Policy 21.2.3.3(c) could potentially be deleted; however, this may leave a hole in the policy provisions regarding general coastal habitats and ecosystems. Recommendation: That no changes be made, and the provisions be reviewed through plan review.

### **Recommendation**

4167.10 - Accept (in part). No change  
1050.19 – No change  
1050.20, 1050.24 – No change

## **2.13 Topic 12: 21.2.3.18 Limiting Structures in CMA adjoining Abel Tasman National Park**

This topic discusses and considers eight requests (1050.22), (1050.23), (4181.1), (4170.1), (4127.4), (4127.5), (4172.1) and (2971.2) regarding policy 21.2.3.18. There is one request in support of the policies (except 21.2.3.18(e)) and the remaining six requests seek amendments to the text.

The requests are summarised as follows:

**(1050.22) Friends of Nelson Haven & Tasman Bay**  
Support/retain except 21.2.3.18(e).

**(1050.23) Friends of Nelson Haven & Tasman Bay**  
21.2.3.18(e) Insert the words “nor affects marine habitats or ecosystems” after the word “adverse.”  
**Reason:** Needs to cover the potential effects on marine habitats and ecosystems.

**(4181.1) Midgley, John**

Ensure the right to moor in Stephens Bay is similar in terms to Torrent Bay “mooring in Stephens Bay is in association with an interest in a land title at either Tapu Bay or Stephens Bay or Dummy Bay”

**(4127.4) & (4127.5) Minister of Conservation**

21.2.3.18(b) Retain as notified with the following amendments – deletion of the words “Two boat ramps at Totaranui.

**Reason:** There is duplication between Policy 22.2.3.18, Method of Implementation 21.2.20.1 and the structures listed in Sch. 25A regarding the two boat ramps at Totaranui. These provisions could be simplified without changing effect.

**(4170.1) Thomas, Darryl, (2971.2) Torrent Bay Township Committee and (4172.1) Hannen, M I**

Only those with invested interests in Land Title at Torrent Bay or Glasgow Bay and to the extent that the cumulative effect of Moorings or structures at each location.

**Reason:** Almost all present moorings have resource consents, therefore not a problem. Any others should be removed.

## Discussion

(1050.22) (4170.1), (2971.2), (4172.1) - The support is accepted

Submission (1050.23) requests policy 21.2.3.18(e) be amended as follows:

*(e) ~~swing moorings will be allowed only~~ in association with an interest in a land title at Boundary Bay, Torrent Bay/Rākauroa, or Astrolabe Roadstead, and only to the extent that the cumulative effect of moorings at each location is not adverse nor affects marine habitats or ecosystems.*

The requested wording clarifies what needs to be considered during consideration of a resource consent application for a new mooring in Boundary Bay, Torrent Bay/Rākauroa, or Astrolabe Roadstead. Recommendation: accept wording change.

Submission (4181.1) requests that the right to moor in Stephens Bay is limited to landowners, similar to the above policy for Torrent Bay. The purpose of the Torrent Bay policy is to enable landowners with water access only to moor boats they use for accessing their properties. There is road access to Stephens Bay and landowners in Stephens Bay are not reliant on water access to access their properties and any such policy would need to be for a different purpose than that for Torrent Bay. The requested change introduces a significant change for both existing mooring owners and for the Stephens Bay community. Restricting mooring ownership to residents only would resolve several of the issues surrounding moorings use in Stephens Bay e.g., parking and for that reason the request has merit, however, for reason of equity and fairness consultation would need to be undertaken with those effected before introducing such a policy. The recommendation is not to introduce such a policy at this point in time but could be reconsidered through the plan review.

Submission (4127.4) & (4127.5) supports the policies with the exception of 21.2.3.18(b) where the deletion of the words “Two boat ramps at Totaranui” is requested. The reason for this request is there is duplication between Policy 22.2.3.18, Method of Implementation 21.2.20.1 and the structures listed in Sch. 25A regarding the two boat ramps at Totaranui.

The two boat ramps at Totaranui are listed in Schedule 25A(ii)(13 & 14) and amendments to Policy 21.2.3.18(d) provides for those structures. The reference to the boat ramps in 21.2.3.18(b) and 21.2.20.1(b)(ii) is not required, and it is recommended that the text in 21.2.3.18(b) and 21.2.20.1(b)(ii) be deleted.

## Recommendation

(1050.22), (4170.1), (4172.1), (2971.2) - Accept

(1050.23) - Amend 21.2.3.18(e) as follows:

(e) ~~swing moorings will be allowed only~~ in association with an interest in a land title at Boundary Bay, Torrent Bay/Rākauroa, or Astrolabe Roadstead, and only to the extent that the cumulative effect of moorings at each location is not adverse nor affects marine habitats or ecosystems.

(4181.1) - No change – to be further considered through the TEP plan review.

(4127.4) & (4127.5) – Accept. Delete 21.2.3.18(b) and 21.2.20.1(b)(ii) as shown below.

21.2.3.18 To limit the number, location, and scale of structures in the coastal marine area adjoining the Abel Tasman National Park in accordance with the following:

...

~~(b) two boat ramps at Totaranui;~~

21.2.20.1 Regulatory

...

(b) Rules that limit the number, location, and scale of structures in the coastal marine area adjoining the Abel Tasman National Park in accordance with the following:

...

~~(ii) two boat ramps at Totaranui;~~

## 2.14 Topic 13: 21.2.20 Regulatory Methods

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This topic discusses and considers four requests ((4167.11) (1050.25) (1050.26) (1050.27)) regarding policy 21.2.20 & 21.2.20.1. There is one submission in support and the remaining three requests seek amendments to the text.

The requests are summarised as follows:

**(4167.11) Mosley, Michael Paul**

Supported

**(1050.25) Friends of Nelson Haven & Tasman Bay**

21.2.20.1 Insert new matter: “(a) Rules that avoid adverse effects of structures including moorings in areas identified by overlays in the Plan in areas of significant indigenous biological diversity shown on overlays” (and quote details in relevant section 11(a) NZCPS).

**Reason:** A new rule needs to be added to reflect the requirement of Council to identify areas of biodiversity and of significant biodiversity with map/overlays of areas that meet the requirements of Policy 11(a)

**(1050.26) Friends of Nelson Haven & Tasman Bay**

21.2.20.1 Retain - except 21.2.20.1(b)(iv) (v?)

**(1050.27) Friends of Nelson Haven & Tasman Bay**

21.2.20.1(b)(v?) Insert the following words “nor affects marine habitats and ecosystems” after the word “adverse”.

**Reason:** Needs to cover the potential effects on marine habitats and ecosystems.

## Discussion

Submissions (4167.11) (1050.26) – Support accepted.

Submission (1050.25) seeks the inclusion of a new rule in the list of regulatory methods [Note: an interpretation has been made regarding the wording requested]:

21.2.20.1

...

(a) Rules that avoid adverse effects of structures including moorings in areas identified by overlays in the Plan in areas of significant indigenous biological diversity shown on overlays

(i) indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists;

(ii) taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;

(iii) indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare<sup>6</sup>;

(iv) habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;

(v) areas containing nationally significant examples of indigenous community types; and

(vi) areas set aside for full or partial protection of indigenous biological diversity under other legislation

Requests 1050.20 & 24 in Topic 11 above requests a new objective and policy. If those requests are accepted, then a new method should also be included. If accepted, then redrafting of the proposed wording is required to fit within the general drafting style used in the Plan. Recommendation: Accept pending the decision on 1050.20 & 24.

Request (1050.27) seeks the addition of the following wording to 21.2.20.1(b)(v?)

(v) swing moorings will be allowed only in association with an interest in a land title at Boundary Bay, Torrent Bay/Rākauroa, The Anchorage or Astrolabe Roadstead, and only to the extent that the cumulative effect of moorings at each location is not adverse nor affects marine habitats and ecosystems;

The recommendation is the wording in request (1050.23) be accepted and if the request is accepted then request (1050.27) should also be accepted as a consequential amendment.

## Recommendation

(4167.11) (1050.26) – Support accepted

(1050.25) – Accept in principle, pending the decision on 1050.20 & 24

(1050.27) – Accept, pending the decision on 1050.23 (Topic 12)

## 2.15 Topic 14: 21.3.2 Objective

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This topic discusses and considers two requests ((1050.28) & (327.5)) regarding Objective 21.3.2. Both requests ask for amendments to the text.

The requests are summarised as follows:

**(1050.28) Friends of Nelson Haven & Tasman Bay**

Amend to “Maintenance of the natural character and landscapes/seascapes of the coastal marine area and avoidance of any effects on Outstanding Natural Landscapes/Seascapes and features” .

**Reason:** As this stands it does not reflect NZCPS 15 which requires identification of areas of natural landscapes and features Including those with” Outstanding Values and their protection.

**(327.5) Golden Bay Marine Farmers Consortium Ltd**

Add “... but recognising aquaculture and its structures within the Coastal Marine Area” .

**Reason:** Fails to recognise marine farming in the Coastal Area.

## Discussion

(1050.28) requests the following text amendments:

Objective 21.3.2 Maintenance of the natural character and landscape /seascapes of the coastal marine area and avoidance of any effects on Outstanding Natural Landscapes/Seascapes and features.

Objective 21.3.2 is not amended by Proposed Plan Change 72 and the plan change does not address Policy 15 of the NZCPS in any substantive manner. TDC has undertaken a landscape study for the district and the draft document identifies areas of outstanding natural landscapes/features. Consultation on the draft study has commenced and once finalised the information will be incorporated with supporting planning provisions into the TEP. It is acknowledged that TDC needs to give effect to Policy 15 of the NZCPS, however, it will take some time for the mapped areas to be complete and for this reason the identified areas will only be included in the TEP where full effect will be given to the NZCPS. Recommendation: no change and reconsider through plan review.

(327.5) requests the following text amendments:

Objective 21.3.2 Maintenance of the natural character and landscape of the coastal marine area but recognising aquaculture and its structures within the Coastal Marine Area.

Objective 21.3.2 is not amended by Plan Change 72 and the Plan Change does not address aquaculture. For this reason, the request (327.5) is considered beyond the scope of the Plan Change. Recommend: No change. However, it should be noted that the review of the regional coastal plan has commenced and the objectives regarding aquaculture structures will be amended in the TEP. Recommend reconsideration through plan review.

## Recommendation

(1050.28) (327.5) – No change

## 2.16 Topic 15: 21.3.3 Natural Features Policy

This topic discusses and considers five requests ((4167.12), (1050.29), (1050.30), (1050.31), (849.3)) regarding policy 21.3.3. There are three submissions in support and the remaining two requests seek amendments to the text.

The requests are summarised as follows:



**(4167.12) Mosley, Michael Paul**

21.3.3 Supported

**(1050.30) Friends of Nelson Haven & Tasman Bay**

21.3.3.2 Support/retain

**(849.3) Heritage New Zealand**

21.3.3.2 Support

**(1050.29) Friends of Nelson Haven & Tasman Bay**

21.3.3.1 Amend – add the following words: “and status” after the words “modification”.

**Reason:** Does not achieve the requirements of the NZCPS.

**(1050.31) Friends of Nelson Haven & Tasman Bay**

21.3.3.# Add new policy – “To protect natural features and landscapes by avoiding adverse effect on (list Policy 15(c) NZCPS) shown by overlay mapping in the Plan.”

**Reason:** Does not achieve the requirements of the NZCPS.

## Discussion

(4167.12) supports Policies 21.3.3 (1&2), and (1050.30) & (849.3) support Policy 21.3.3.2. This support is accepted.

(1050.29) requests the following text amendment to Policy 21.3.3.1:

*To allow Mooring Areas and ~~or~~ structures or physical modifications in the coastal marine area only where the effect on the natural components of landscape and seascape values of the area, including any contribution to any likely cumulative effect, is limited in extent and is consistent with the existing degree of landscape and seascape modification and status.*

The reason given is that the existing wording does not achieve the requirements of the NZCPS. It is uncertain what is meant by the requested text and how this would achieve the requirements of the NZCPS. More information from the requester is needed.

(1050.31) requests the addition of the following new policy. [Note: an interpretation has been made regarding the wording requested]:

- 21.3.3.# Add new policy – To protect natural features and landscapes by avoiding adverse effect on
- i. natural science factors, including geological, topographical, ecological and dynamic components;
  - ii. the presence of water including in seas, lakes, rivers and streams;
  - iii. legibility or expressiveness – how obviously the feature or landscape demonstrates its formative processes;
  - iv. aesthetic values including memorability and naturalness;
  - v. vegetation (native and exotic);
  - vi. transient values, including presence of wildlife or other values at certain times of the day or year;
  - vii. whether the values are shared and recognised;
  - viii. cultural and spiritual values for tangata whenua, identified by working, as far as practicable, in accordance with tikanga Māori; including their expression as cultural landscapes and features;
  - ix. historical and heritage associations; and
  - x. wild or scenic values;

*shown by overlay mapping in the Plan.*

Policy 15(c) lists the matters to be considered when identifying and assessing natural features and natural landscapes of the coastal environment. The matters listed are not intended to be used as policy in the plan and to some extent would be hard to interpret as written in the NZCPS e.g. "Avoid adverse effects on ... vegetation". These criteria have however been used in the recently drafted landscape and natural features study and following consultation the areas identified in the study will ultimately be incorporated into the TEP maps, along with the planning framework required under Policy 15 (d) of the NZCPS. It is acknowledged that TDC needs to give effect to Policy 15 of the NZCPS, however, it will take some time for the mapped areas to be complete and for this reason the identified areas will only be included in the TEP and where full effect can be given to the NZCPS. Recommendation: no change and reconsider through plan review.

## **Recommendation**

(4167.12), (1050.30) & (849.3) – Accept support  
(1050.29) - No recommendation  
(1050.31) - No change

## **2.17 Topic 16: 21.3.20 Regulatory Methods**

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This topic discusses and considers two requests ((4167.13) & (1050.32)) regarding Section 21.3.20. There is one submission in support and the remaining request seeks an amendment to the text.

The requests are summarised as follows:

**(4167.13) Mosley, Michael Paul**  
21.3.20 Supported

**(1050.32) Friends of Nelson Haven & Tasman Bay**

Add a new method "(a) Rules that avoid adverse effects of structures including moorings in areas of Outstanding Natural Landscapes/Seascapes and Features identified by overlays in the Plan."  
Renumber.

**Reason:** This does not meet the requirements of the NZCPS as there are no indicators of the Council's responsibility to identify areas of natural landscapes/seascapes and features.

## **Discussion**

(4167.13) supports Section 21.3.20, this support is accepted.

(1050.32) request the following new method be added:

*21.3.20.# Rules that avoid adverse effects of structures including moorings in areas of Outstanding Natural Landscapes/Seascapes and Features identified by overlays in the Plan.*

TDC are giving effect to Policy 15 through the review work for the TEP. TDC has commissioned a report identifying areas of outstanding Natural landscapes/ seascapes and features and following consultation the areas identified will be incorporated into the TEP Maps, along with the planning framework required under Policy 15 (d) of the NZCPS. It is acknowledged that TDC needs to give effect to Policy 15 of the NZCPS, however, it will take some time for the mapped areas to be complete and for this reason the identified areas will only be included in the TEP and where full effect can be given to the NZCPS.

**Recommendation:** No change and reconsider through plan review.

## Recommendation

(4167.13) – Accept support

(1050.32) – No Change

## 2.18 Topic 17: 21.6.1 & 21.6.2 Public Access

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This topic discusses and considers two requests ((1050.33), (1050.34)) regarding Sections 21.6.1 and 21.6.2. Both requests seek amendments to the text.

The requests are summarised as follows:

### **(1050.33) Friends of Nelson Haven & Tasman Bay**

21.6.1 Amend - add the words “natural features and landscapes” after “natural character”

**Reason:** Public access may also adversely affect natural features and potentially natural landscapes.

### **(1050.34) Friends of Nelson Haven & Tasman Bay**

21.6.2(a) Amend - add the words “natural features and landscapes”

**Reason:** Public access may also adversely affect natural features and potentially natural landscapes.

## Discussion

(1050.33) requests the following amendments to the text.

21.6.1 Public access to the coastal marine area may be restricted by private occupation, and public or private access may adversely affect natural character, [natural features and landscapes](#), ecosystems, heritage and amenity values.

(1050.34) requests the following amendments to the text.

21.6.2 Maintenance and enhancement of public access in the coastal marine area, including public passage or navigation:

(a) while preserving natural character [natural features and landscapes](#), and maintaining ecosystems, heritage, and amenity values; and

The reasons given for both requests is that public access may also affect adversely natural features and potentially natural landscapes. Proposed Plan Change 72 does not make changes to either Issue 21.6.1 or Objective 21.6.2(a) but does propose changes to Policy 21.6.3.1 with inclusion of a new reference to the functional need for activities to occupy the CMA. Proposed Plan Change 72 does not address natural features and landscapes within the CMA in any meaningful way with the intention for Policy 15 to be fully given effect to through the plan review. It is acknowledged that minor wording amendments are proposed for the TRMP to give effect to the NZCPS, and these suggested changes might be considered to fall within the scope of those changes.

I am not entirely sure that public or private access within the CMA (policy 21.6.1 & 2), e.g., boating, would have any effect on natural features and landscapes.

**Recommendation:** No change and reconsider through plan review.

## Recommendation

(1050.33) and (1050.34) - No change

## 2.19 Topic 18: 21.6.3 Access

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This topic discusses and considers eight requests ((4167.14), (849.4), (4167.15), (4167.16), (1050.35), (1050.36), (1050.37) and (4167.17)) regarding Section 21.6.3. There are three submissions in support, three submissions in opposition and two request amendments to the text.

The requests are summarised as follows:

**(4167.14) Mosley, Michael Paul**

21.6.3.1 Opposed.

**Reason:** Meaning unclear, needs rewriting to be more specific

**(849.4) Heritage New Zealand**

21.6.3.4 Support.

**(4167.15) Mosley, Michael Paul**

21.6.3.4 Supported

**(4167.16) Mosley, Michael Paul**

21.6.3.5 Opposed.

**Reason:** Needs rewriting to make clear what the intent and expectations are.

**(1050.35) Friends of Nelson Haven & Tasman Bay**

21.6.3.6 Support/Retain except (a) and (b)

**(1050.36) Friends of Nelson Haven & Tasman Bay**

21.6.3.6(a) Amend- the word “encouraging” to “requiring”

**Reason:** Support but needs to be a requirement.

**(1050.37) Friends of Nelson Haven & Tasman Bay**

21.6.3.6(b) Amend- the word “encouraging” to “requiring”

**Reason:** Support but needs to be a requirement.

**(4167.17) Mosley, Michael Paul**

21.6.3.6 Opposed.

**Reason:** Needs rewriting to make clear what the intent and expectations are

### Discussion

(849.4) and (4167.15) support Policy 21.6.3.4. That support is accepted. (1050.35) Support/Retain except (a) and (b) - accepted

(4167.14) opposes Policy 21.6.3.1 for the reason the meaning is unclear, and it is requested that the policy be rewritten to be more specific. The policy is currently proposed as the following:

21.6.3.1 To avoid, remedy or mitigate adverse effects of facilities for access to and from the coastal marine area [and the functional need for activities to occupy the coastal marine area](#).

Proposed Plan Change 72 amends the wording of an existing policy to better reflect Policy 6(2)(c) of the NZCPS which requires that activities which do not generally have a functional need for being located within the CMA, be located elsewhere. The proposed wording would be improved by the insertion of the word “those” between “for” and “activities”. It is recommended that the wording be amended as follows or the proposed wording be removed and the Policy 6(2)(c) of the NZCPS be given effect to through the plan review.

21.6.3.1 To avoid, remedy or mitigate adverse effects of facilities for access to and from the coastal marine area and consider the functional need for those activities to occupy the coastal marine area.

(4167.16) opposes Policy 1.6.3.5 and requests that the policy is rewritten to make it clearer what the intent and expectations are. The policy is as follows:

1.6.3.5 To enable Mooring Areas to establish in appropriate locations where the structures will enhance public access to and along the coastal marine area.

This policy is part of a set of policies which identify where the establishment of additional Mooring Areas would be appropriate. This policy supports the establishment of Mooring Areas in practical and accessible locations for boaties.

**Recommendation:** No change.

(1050.36) and (1050.37) support Policy 21.6.3.6 but consider the provisions in (a) and (b) should be changed to become a requirement. (4167.17) opposes Policy 21.6.3.6 and requests a rewrite to make the intention and expectations clear. The following text amendments are requested by (1050.36) and (1050.37).

21.6.3.6 To minimise the effects on public access from moored and anchored craft by:  
(a) providing Mooring Areas in appropriate locations and ~~encouraging~~ requiring mooring within those areas;  
(b) ~~encouraging~~ requiring public moorings in appropriate locations;  
(c) requiring the use of space efficient mooring systems where practicable and appropriate

Proposed Plan Change 72 encourages moorings to locate within Mooring Areas by providing for them as a permitted activity and requiring a resource consent (Discretionary Activity) for moorings established elsewhere in the CMA. There is insufficient space within the Mooring Areas to provide for all currently consented moorings and the Mooring Areas are not located in all areas where moorings are currently established or required. To change the policy 21.6.3.6(a) to require moorings to be located in Mooring Areas would require significant amendments to the objectives, policies and rules which currently provide for moorings outside of Mooring Areas. It is considered there is sufficient objectives and policies within the TRMP regarding the establishment of moorings outside of Mooring Areas and there is no need for moorings to be located solely within Mooring Areas.

**Recommendation:** No change.

(1050.37) requests the wording in policy 21.6.3.6(b) also be changed from “encouraging” to “requiring” (see above). It is anticipated that public moorings will be established within the Mooring Areas and there are currently three moorings consented for public use (boat club) at Tata Islands. However, TDC has no particular powers to require the establishment of public moorings or funding nor is there any guidance on where they should be strategically located. Consideration regarding the need and location for public moorings will be occur through the Policy 6 (activities) and Policy 7 (strategic planning) (NZCPS) work.

**Recommendation:** No change

## Recommendation

(849.4) (4167.15) (1050.35) - Support accepted

(4167.14) - Amend 21.6.3.1 as follows or delete the proposed wording:

*To avoid, remedy or mitigate adverse effects of facilities for access to and from the coastal marine area and consider the functional need for those activities to occupy the coastal marine area.*

(4167.16) (1050.36) (1050.37) (4167.17) - No change

## 2.20 Topic 19: 21.6.20 Regulatory Methods

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This topic discusses and considers five requests ((1050.38), (1050.39), (1050.40), (4167.18) and (4167.19)) regarding Section 21.6.20.1. There are three requests in support and two requests seek amendments to the text.

The requests are summarised as follows:

**(1050.38) Friends of Nelson Haven & Tasman Bay**

21.6.20.1 Support in general

**Reason:** Support in general with minor changes to comply with legislation.

**(4167.18) Mosley, Michael Paul**

21.6.20.1(h) Supported

**(4167.19) Mosley, Michael Paul**

21.6.20.1(i) Supported

**(1050.39) Friends of Nelson Haven & Tasman Bay**

21.6.20.1(b) Add the words “and along” after the words “across”

**Reason:** Support in general with minor changes to comply with legislation.

**(1050.40) Friends of Nelson Haven & Tasman Bay**

21.6.20.1(c) Add the words “natural landscapes and features” after the word character”.

**Reason:** Support in general with minor changes to comply with legislation.

### Discussion

(1050.38), (4167.18), (4167.19) supported (in part). Support accepted.

(1050.39) and (1050.40) request the following amendments to the text.

21.6.20.1(b) Rules that prevent private occupation that impedes public access across and along the foreshore.

21.6.20.1(c) Rules that prohibit occupation by structures where their adverse effects on natural character, natural landscapes and features natural ecosystems and public interest, cannot otherwise be avoided, remedied or mitigated.

Proposed Plan Change 72 does not amend Methods of Implementation (b) or (c) and the requestor is seeking to make the text changes to better reflect the NZCPS. Both proposed changes do reflect the NZCPS, but as the changes are proposed to the methods and not the policies the requested changes will have limited tangible benefit. Recommendation: No change. Important but should be considered through the plan review.

### Recommendation

((1050.38), (4167.18) & (4167.19) – Accept support

(1050.39) and (1050.40) – No change

## 2.21 Topic 20: 25.1.2 Permitted Activities

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This topic discusses and considers five requests ((4167.20), (849.5), (4177.1), (4127.2), (529.2)) regarding Section 25.1.2. There are three requests in support and two requests seek amendments to the text.

The requests are summarised as follows:

**(4167.20) Mosley, Michael Paul**

All supported

**(849.5) Heritage New Zealand**

25.1.2.1(d) Support, Inclusion of maintenance and repair, using same or similar materials as a permitted activity.

**(4177.1) Kininmonth, Mike and Clare**

25.1.2.1(c)(i) Reconsideration

**Reason:** Stopping owners from staying on their boat is far too onerous on the owners/occupiers of moorings and would like reconsideration of this clause.

**(4127.2) Conservation, Minister of**

25.1.2.1 Retain

**(529.2) Motueka Yacht & Cruising Club**

25.1.2.1(c) Add the requirement for any vessel moored to be in a serviceable and seaworthy condition as managed by the Navigation Safety Bylaws.

### Discussion

(4167.20) (849.5) & (4127.2) support in whole or in part – support accepted.

(4177.1) requests reconsideration of Rule 25.1.2.1(c)(i) which limits persons living on board a craft moored on the mooring for a period exceeding seven days within any two calendar months. The reason given was that stopping owners/occupiers staying on boats on moorings is too onerous and reconsideration was required. Proposed Plan Change 72 provides for short term, occasional live aboard activities to enable the repair and maintenance of boats. However, existing Rule 25.1.6.1(c) has been interpreted as meaning that permanent living aboard where the boat is fixed to the land (eg on a mooring) is prohibited. See Rule 25.1.6.1(c) below.

#### **25.1.6.1 Prohibited Activities (Structures and Occupation)**

No resource consent shall be granted for the following prohibited activities:

...

(c) The construction or use of any boatshed or other structure, or the occupation of coastal marine area by any boatshed or other structure, for the accommodation of any person.

...

(Structure – means any building, equipment, device, or other facility made by people and which is fixed to land; and includes any raft.)

Residential activity requires the support of services such wastewater, rubbish disposal, drinking water and parking and can produce amenity effects like noise and lighting which adversely affect the natural character of the CMA and adjoining residential properties. The NZCPS discourages activities locating within the CMA which have no functional need to be there, as well, the TRMP prohibits long term occupation. However, it is acknowledged that there some locations where residential activity may be appropriate in limited numbers, e.g., marinas- where natural character is low and basic services often exist and the residents have an

important role in providing security for the marina. Recommendation: No change, however, the existing provisions regarding residential activity within the CMA, should be reconsidered through the plan review as it may be appropriate to provide for living aboard in limited but appropriate locations.

(529.2) requests that any vessel moored to be in a serviceable and seaworthy condition as managed by the Navigation Safety Bylaws. Proposed Plan Change 72 introduces a system by where appropriate locations for moorings are identified and the mooring of a boat within the areas is a permitted activity subject to holding a mooring licence. The sea worthiness of boats is not particularly considered under the RMA or the TRMP and is largely addressed through a separate piece of legislation (Maritime Transport Act) which enables the Harbourmaster to act in matters of maritime safety. It is acknowledged that derelict boats and poorly maintained boats are an issue, particularly in Motueka and Otuwhero, however the issue is beyond the scope of this plan change. Recommendation: No change.

## Recommendation

(4167.20), (849.5), (4177.1 (4127.2) (529.2) - No change

## 2.22 Topic 21: Contravention of a Rule (25.1.2.1(a), 25.1.2.3 & 25.1.5.6A)

This topic discusses and considers three requests ((1050.41) (1050.42) and (1050.43) to amend text.

The requests are summarised as follows:

### (1050.41) Friends of Nelson Haven & Tasman Bay

25.1.2.1(a) Amend as follows: “The activity does not contravene any other applicable rule in this Plan”

### (1050.42) Friends of Nelson Haven & Tasman Bay

25.1.2.3 Insert as follows: “(a) The activity does not contravene any other applicable rule in this Plan”

### (1050.43) Friends of Nelson Haven & Tasman Bay

25.1.5.6A Insert as follows: “(a) The activity does not contravene any other applicable rule in this Plan”

**Reason:** These sections need to begin with ensuring that the activity (whatever it is) does not contravene any other rule in the plan.

## Discussion

(1050.41) (1050.42) and (1050.43) request either an amendment to existing text or inclusion of new text in Rules 25.1.2.1(a), 25.1.2.3 and 25.1.5.6A. The requested changes are shown below.

### 25.1.2.1 Permitted Activities (Structures Relating to Craft)

Any structure for the launching, haulout, mooring, berthage, or storage of craft, including launching ramps, slipways, swing or pile moorings, jetties, or boatsheds is a permitted activity that may be undertaken without a resource consent, if it complies with the following conditions:

(a) The activity does not contravene any other applicable rule in ~~Chapter 25 of~~ this Plan.

..

### 25.1.2.3 Discretionary Activities (Structures Relating to Craft)



Any structure for the launching, haulout, mooring, berthage, or storage of craft, or yacht or boat club clubrooms, and including launching ramps, slipways, swing or pile moorings, jetties, or boatsheds, that does not comply with rule 25.1.2.2, is a discretionary activity, if it complies with the following conditions:

(a) The activity does not contravene any other applicable rule in this Plan.

(a) The structure is not sited in any area identified in Schedule 25D, except

...

#### **25.1.5.6A Permitted Activities (Removal of Structures)**

The removal of structures and any disturbance of the coastal marine area by or in connection with the removal is a permitted activity that may be undertaken without resource consent, if it complies with the following conditions:

(a) The activity does not contravene any other applicable rule in this Plan.

(a) The removal is undertaken by or on behalf of:

...

The requested changes modify the rules cascade for activities listed in 25.1.2.1(a), 25.1.2.3 & 25.1.5.6A and would require a number of amendments to the current rule provisions to respond to the change in the rule cascade. For example, if a permitted activity e.g., the maintenance of a jetty was to contravene the discharge permitted activity rules (36.2.2) then the activity would change from permitted to discretionary, subject to meeting the conditions of 25.1.2.3. The conditions in 25.1.2.3 are limited and in the case of the jetty maintenance example the activity would default to Non-Complying under Rule 25.1.2.4. Applications for a resource consent for a non-complying activity are assessed against all relevant policies in the TRMP and the relevant policies in external documents such as the NZCPS.

Under the current wording in the TRMP only that part of the application which does not meet the permitted standard would require a resource consent. Which means (using the jetty maintenance example) a resource consent would only be required for the discharge and the application would be assessed solely against the provisions for discharges. There may be some benefit in the requested changes however, in the absence of an in-depth analysis of the benefits and costs of the requested changes it appears the current consenting framework is both effective and appropriate. The requested changes would have a complex impact on the consenting framework within the TRMP and would require significant changes which are beyond the scope of Proposed Plan Change 72. A separate assessment and plan change would be required. Recommendation: No change - reconsider through the plan review.

### **Recommendation**

(1050.41) (1050.42) & (1050.43) - No change

## **2.23 Topic 22: 25.1.2.3 Discretionary Activities**

This topic discusses and considers three requests ((849.6) (4127.6) and (849.7)) regarding Rule 25.1.2.3. There is one request in support and two requests seek amendments to the text.

The requests are summarised as follows:

#### **(849.6) Heritage New Zealand**

Amend as follows "...does not comply with the rule ~~25.1.2.2~~ 25.1.2.1 is a discretionary activity..."

#### **(4127.6), Minister of Conservation**

Amend as follows "... does not comply with Rule ~~25.1.2.2~~ 25.1.2.1"

**Reason:** Consequential amendment. Rule 25.1.2.2 has been deleted.

### **(849.7) Heritage New Zealand**

25.1.2.3 (q) Support Inclusion of heritage and cultural values as a matter for consideration in assessment of resource consent applications.

## **Discussion**

(849.7) - Support is accepted.

(849.6) (4127.6) – Accepted. The change requested corrects an error. Rule 25.1.2.2 has been deleted and the reference should be changed to [25.1.2.1](#).

## **Recommendation**

(849.7) – Accept

(849.6) (4127.6) – Amend rule 25.1.2.3 as follows:

*Any structure for the launching, haulout, mooring, berthage, or storage of craft, or yacht or boat club clubrooms, and including launching ramps, slipways, swing or pile moorings, jetties, or boatsheds, that does not comply with rule 25.1.2.2 ~~1~~, is a discretionary activity, if it complies with the following conditions:*

## **2.24 Topic 23: 25.1.5.6A Permitted Activities (Removal of Structures)**

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This topic discusses and considers two requests ((1050.1) & (849.8)) regarding Rule 25.1.5.6A. There are two requests in support and one request seeks amendments to the text.

The requests are summarised as follows:

### **(1050.1) Friends of Nelson Haven & Tasman Bay**

25.1.5.6A Support the removal of derelict, poorly designed unconsented moorings. If requested by the owner, unconsented moorings within mooring areas should be relicensed within 12 months of the plan becoming operative or removed at the owner’s expense.

### **(849.8) Heritage New Zealand**

25.1.5.6A(f) Oppose in part. Amend as follows:

“(f) The structure is [not entered on the New Zealand Heritage List/Rarangi Korero](#) ~~recorded on the New Zealand Heritage List (in accordance with the Heritage New Zealand Pouhere Taonga Act 2014)~~ or listed in Schedule 16.13A, [or within a Cultural Heritage Site, including those listed in Schedule 16.13D](#)

[Note: Before undertaking any work that may affect an archaeological site \(recorded or unrecorded\) an authority is required from Heritage New Zealand. An archaeological site is defined in the Heritage New Zealand Pouhere Taonga Act 2014 as any place in NZ \(including buildings, structures or shipwrecks\) that was associated with pre-1900 human activity, where there is evidence relating to the history of New Zealand that can be investigated using archaeological methods.”](#)

**Reason:** It is highly likely that there are structures and sites within the Coastal Marine Area which have heritage and cultural values but are not on the schedule of HNZPT List. There are also archaeological sites associated with pre-1900 human activity. Reference to archaeological sites in this rule will help to protect these sites from unintentional damage or destruction. Cultural Heritage site is defined in the Plan with reference to the Heritage New Zealand

Pouhere Taonga Act 2014. This is appropriate to reference here. We consider that it is appropriate to include a note to draw attention to the archaeological authority process.

## Discussion

(1050.1) Supports the new rule, but requests that derelict/ poorly designed unconsented or unlicensed moorings should be removed within 12 months of the plan becoming operative.

In the areas where unconsented moorings exist Council is required to establish ownership and then request the mooring structures be removed, where ownership is not established then Council has the power under the TRMP, RMA & MACA Act to remove the mooring structures.

The intention is to remove all unconsented moorings before Mooring Licences are issued to avoid conflict between previous and subsequent mooring owners. Attempts to locate owners of unconsented moorings will take time and there will also be significant work associated with the processing of the new Mooring Licences applications. For this reason, the Bylaw includes provisions which enable the Harbourmaster to release the Mooring Areas in stages. Regarding the request (1050.1) it is unlikely that all unconsented moorings will be removed within 12 months of the plan becoming operative, however, the implementation of the new provisions is reliant on the unconsented/ delict moorings being removed either at the owners or Council's/DOC's cost. Recommendation: Support accepted, but no change.

(849.8) the changes requested strengthen the provisions and better integrate with the Heritage New Zealand Pouhere Taonga Act 2014. Similar notes and provisions are included elsewhere in the TRMP (eg 16.3.5.1) for areas outside of the CMA. Recommendation: Accept the requested text amendments

## Recommendation

(1050.1) – Accept the support

(849.8) - Amend the text of 25.1.5.6A(f) as follows:

*The structure is not entered on the New Zealand Heritage List/Rarangi Korero recorded on the New Zealand Heritage List (in accordance with the Heritage New Zealand Pouhere Taonga Act 2014) or listed in Schedule 16.13A, or within a Cultural Heritage Site, including those listed in Schedule 16.13D*

*Note: Before undertaking any work that may affect an archaeological site (recorded or unrecorded) an authority is required from Heritage New Zealand. An archaeological site is defined in the Heritage New Zealand Pouhere Taonga Act 2014 as any place in NZ (including buildings, structures or shipwrecks) that was associated with pre-1900 human activity, where there is evidence relating to the history of New Zealand that can be investigated using archaeological methods.*

## 2.25 Topic 24: 25.1.20 Principal Reasons for Rules

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This topic discusses and considers four requests ((1050.44), (1050.45), (1050.46), (4127.7)) regarding Section 25.1.20. The four requests seek amendments to the text.

The requests are summarised as follows:

**(1050.44) Friends of Nelson Haven & Tasman Bay**

Reinsert “[and] details of their structural integrity” before the words “to Council.

**(1050.45) Friends of Nelson Haven & Tasman Bay**

Break paragraph up to make more sense

**(1050.46) Friends of Nelson Haven & Tasman Bay**

Amend the last sentence to read “All new structures require consent which will not be granted if in areas identified as Outstanding Natural Character, Outstanding Natural Landscapes/Seascapes or features or with significant biodiversity values in accordance with Policy 11 of the NZCPS.”

**Reasons:** This section includes much more than just moorings. As it stands it indicates that ALL unauthorised structures have permitted status. Surely this is not the intention – for example, a unauthorised falling down boat house would arguably be “permitted”. Structural integrity is important for moorings as well as other coastal structures (yet to be covered). Additionally, new structures cannot be established in areas of Outstanding Natural Character (NZCPS Policy 13): Outstanding Natural Landscapes/Seascapes and Features (NZCPS Policy 15) and significant Indigenous diversity (NZCPS Policy 11).

**(4127.7) Conservation, Minister of**

Amend as follows “...under the Marine and Coastal Area (Takutai Moana) Act 2011 and the Marine and Coastal Area (Takutai Moana) Ownership of Structures Regulations 2015...”

**Reasons:** Amendment to correctly name the Act and Regulations.

**Discussion**

(1050.44) requests the reinsertion of the text “details of their structural integrity” before the words “to Council. The request is for the following amendments (n red)

*The District contains several existing structures that have no current authorisation – because none were needed previously, or consent requirements were not administered. Those existing unauthorised structures that have no adverse effects have been given permitted activity status, subject to a condition relating to the provision of the owner’s name and contact details ~~their structural integrity to Council~~ ~~their structural integrity~~. Consent needs to be obtained for other unauthorised structures if adverse effects can be adequately managed; otherwise, the structures need to be removed. Where coastal structures are abandoned and no owner can be found then, under the Marine and Coastal Area Act 2011, the Crown (Department of Conservation) is deemed to be the owner and the structure can be removed. Council can also remove some abandoned structures where the structure is considered to be of minimal value and the owner cannot be found. All new structures require consent, which will not be granted unless adverse effects can be avoided, remedied or mitigated.*

The reason given for the requested change is that the section includes much more than just moorings and the wording indicates that ALL unauthorised structures have permitted status which is not the intention. Structural integrity is important for moorings as well as other coastal structures

Section 25.1.20 provides a high-level summary of the reasons for the planning framework within Chapter 25. Section 25.1.20 has no regulatory effect. Unfortunately, the wording in Section 25.1.20 is confusing and where it mentions that “unauthorised structures that have no adverse effects have been given permitted activity status subject to a condition relating to their structural integrity” it is referring to those structures identified prior to notification of the TRMP which were ultimately included in the Schedule 25A e.g., the Mapua and Kaiteriteri moorings. Rule 25.1.2.1(b) provides for all structures listed in Schedule 25A as permitted activities, all other unauthorised structures require consent or should be removed. The wording “structural integrity” is proposed for removal in Proposed Plan Change 72 because it appears to have been included in Section 25.1.20 in error. “Structural integrity” is not listed as a condition for permitted activities (Section 25.1.2.1) and it is thought that it might have been one of the initial selection criteria when Schedule 25A was being compiled in the early 1990’s. The proposed deletion of the wording “structural integrity” corrects an error in the TRMP. Recommendation: No change.

(1050.45) requests the last paragraph of this section be broken up as it very long. This is accepted and it is recommended that the paragraph be broken after the words “Otherwise the structures need to be removed.”

(1050.46) requests the last sentence be amended to read “All new structures require consent which will not be granted if in areas identified as Outstanding Natural Character, Outstanding Natural Landscapes/Seascapes or features or with significant biodiversity values in accordance with Policy 11 of the NZCPS.” The reason for this requested change is that new structures cannot be established in areas of Outstanding Natural Character: Outstanding Natural Landscapes/Seascapes and Features and Significant Indigenous diversity.

The requested change is correct but as discussed elsewhere in this report TDC is currently in the process of identifying areas of Outstanding Natural Character: Outstanding Natural Landscapes/Seascapes and Features and Significant Indigenous diversity and once identified the NZCPS will be given full effect to through the TEP. The requested text could be included; however, it would be confusing as the purpose of the section is to give the principal reasons for the rules, and no specific rules giving effect to the NZCPS (regarding Outstanding Natural Character: Outstanding Natural Landscapes/Seascapes and Features and Significant Indigenous diversity) are planned for the TRMP. Recommendation: No change.

(4127.7) requests the following amendments to correctly name the Act and Regulations.

...

*Consent needs to be obtained for other unauthorised structures if adverse effects can be adequately managed; otherwise the structures need to be removed. Where coastal structures are abandoned and no owner can be found then, [under the Marine and Coastal Area \(Takutai Moana\) Act 2011 and the Marine and Coastal Area \(Takutai Moana\) Ownership of Structures Regulations 2015](#), the Crown (Department of Conservation) is deemed to be the owner and the structure can be removed. Council can also remove some abandoned structures where the structure is considered to be of minimal value and the owner cannot be found.*

...

Recommendation: Accept - corrects an error.

## Recommendation

(1050.44), (1050.46) – No change.

(4127.7), (1050.45) – Accept. Amend 25.1.20 as follows:

*The District contains several existing structures that have no current authorisation – because none were needed previously, or consent requirements were not administered. Those existing unauthorised structures that have no adverse effects have been given permitted activity status, subject to a condition relating to the provision of the owner’s name and contact details to Council ~~their structural integrity~~. Consent needs to be obtained for other unauthorised structures if adverse effects can be adequately managed; otherwise, the structures need to be removed.*

*[Where coastal structures are abandoned and no owner can be found then, under the Marine and Coastal Area \(Takutai Moana\) Act 2011 and the Marine and Coastal Area \(Takutai Moana\) Ownership of Structures Regulations 2015](#), the Crown (Department of Conservation) is deemed to be the owner and the structure can be removed. Council can also remove some abandoned structures where the structure is considered to be of minimal value and the owner cannot be found. All new structures require consent, which will not be granted unless adverse effects can be avoided, remedied or mitigated.*

## 2.26 Topic 25: Schedule 25 Coastal Structures permitted by Rule 25.1.2.1

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This topic discusses and considers eight requests ((1050.44), (4127.7), (4171.2), (849.9), (4172.4), (4170.2), (4170.3), (4170.4), (2971.3), (2971.4), (2971.5), (4171.1) regarding Schedule 25. There are nine requests in support and three request seek amendments to the text.

The requests are summarised as follows:

**(4171.1) Clark, Andy**

Amend schedule to include [Milnthorpe] Boat Ramp.

**Reason:** Schedule is incomplete and inconsistent as the well-used Milnthorpe Boat Ramp is not included.

**(4171.2) Clark, Andy**

Amend schedule to include Pile Mooring.

**Reason:** Schedule is incomplete and inconsistent as the pile mooring adjacent to Milnthorpe Wharf not included. The pile moorings have been there 40 years and other pile moorings, without environmental studies have been included

**(849.9) Heritage New Zealand**

Oppose. Sch. 25A(ii): Amend wording for Mangarakau Wharf from “derelict” to “uncompleted wharf”.

**(4172.2) M I Hannen, (4170.2) Thomas, Darryl, (2971.3) Torrent Bay Township Committee**

[Torrent Bay Estuary Lagoon] The present Main Jetty and small Boat Ramp have resource consent – so no problem.

**(4172.3) M I Hannen, (4170.3) Thomas, Darryl, (2971.4) Torrent Bay Township Committee**

Finger Jetty] Agree with the Finger Jetty becoming a Permitted Activity

**(4172.4) M I Hannen, (4170.4) Thomas, Darryl, (2971.5) Torrent Bay Township Committee**

[Torrent Bay Pile Moorings] support the retention of the two pole moorings.

**Reason:** Approve and endorse the continued present use and interest of these current two structures in their present form and location.

### Discussion

(4171.1) (4171.2) requests two additional structures (an existing pile mooring and boat ramp at Milnthorpe) be added to the list of permitted activities in Schedule 25. The reasons given is that the pile mooring has been there for 40 years and other pile moorings, without environmental studies, have been included, and the schedule is incomplete and inconsistent without the well-used Milnthorpe Boat Ramp being included. The pile mooring and boat ramp have not been assessed as part of Proposed Plan Change 72 and for reasons unknown the pile mooring and Milnthorpe boat ramp were not included when Schedule 25 was initially compiled. The TRMP is currently under review and part of that review will consider how and which structures might be provided for as a permitted activity in the TEP. It is recommended that the pile mooring and boat ramp not be included in Schedule 25 at this point in time, and that they should be considered for inclusion as part of the plan review.

**Recommendation:** No Change

(849.9) requests a text amendment for the boat ramp at Mangarakau Wharf (Sch. 25A(ii)(21)) from “derelict” to “uncompleted wharf” to be consistent with the changes proposed for the Mangarakau Wharf (Sch.

25A(i)(11)). The requested changes make the wording consistent and better reflect the history of the site. Recommendation – amend the wording at (Sch. 25A(ii)(21)) from “Adjoining ~~derelict~~ uncompleted wharf”.

(4172.2), (4170.2), (2971.3) support the inclusion of the present Main Jetty and Small Boat Ramp - the support is accepted. (4172.3), (4170.3), (2971.4) support the Finger Jetty becoming a Permitted Activity. The support is accepted.

(4172.4), (4170.4), (2971.5) supports the retention of the two pole moorings in Torrent Bay. These structures have recently been granted resource consent (200935 & 200874) and can continue to be used for the next 20 years. The pole moorings are private structures adjoining a national park, as there is no immediate need to provide for the structures it is recommended that these structures and any others should be reconsidered through plan review. Recommendation: No change.

## Recommendation

(4171.1) (4171.2) - No change

(849.9) – Accept. Amend the wording in Sch. 25A(ii)(21) to “Adjoining ~~derelict~~ uncompleted wharf”.

(4172.2), (4170.2), (2971.3), (4172.3), (4170.3), (2971.4) - Support accepted.

(4172.4), (4170.4), (2971.5) - No change.

## 2.27 Topic 26: Maps 180

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This topic discusses and considers 10 requests ((4127.3), (4179.2), (4174.1), (529.3), (4167.21), (4181.2), (4181.3), (4181.4), (4181.5), (4171.3) regarding the mapped Mooring Areas. There was one further submission (4127) in opposition to one of the requests (4179.2).

The requests are summarised as follows:

### **(4127.3) Conservation, Minister of**

Maps 180. Retain

### **(529.3) Motueka Yacht & Cruising Club**

Map 180B. The Mooring Area be moved further north to start opposite 77 Trewavas St (from 53 Trewavas St).

**Reason:** This would reduce the impact on existing use by sailors and align more closely with the area currently used by informal moorings.

### **(4167.21) Mosley, Michael Paul**

Map 180B. Oppose Motueka Mooring Area 2 – Delete the mooring area and all resource consents for moorings offshore from Trewavas Street Reserve should be publicly notified.

### **(4174.1) Darling, W K**

Do not allow Mooring Areas to be fixed. Allow local users to be integral players of the Management Committee to administer rules in their Mooring Areas.

### **(4179.2) Marine Farming Association**

GEN - That flexibility be retained in the designation of Mooring Areas to allow for future development of critical port/marina infrastructure

- (4127.1) Minister of Conservation - Further Submission – Oppose. Future development of critical port/marina infrastructure should either be introduced by plan change or when the Tasman Resource Management Plan is reviewed

**(4181.2) Midgley, John**

Map 180C. Stephens Bay is open to the east and southeast and so subject to the sea build up and this leaves vessels exposed to the prospect of severe movement leading to breaking away from their mooring.

**(4181.3) Midgley, John**

Map 180C. One commercial operator is more than enough for this small family type bay.

**Reason:** The operator's clients park their cars for the full day excursion and so denying others the use of the parking space.

**(4181.4) Midgley, John**

Map 180C. For safety reasons I consider there are enough moorings in Stephens Bay.

**(4181.5) Midgley, John**

Map 180C. The current commercial operator should be moved to Kaiteriteri.

**(4171.3) Clark, Andy**

Map 180F. Amend Map to enlarge the Mooring Areas back to the size of the original proposal.

**Reason:** The Harbourmaster did not identify any issues with original area, more than adequate space, other basins clear of the main tidal flow where visiting vessels can manoeuvre or moor.

## Discussion

### Maps (all)

(4127.3) requests the proposed maps be retained.

Recommendation: Accept

(4179.2) requests that flexibility be retained in the designation of Mooring Areas to allow for future development of critical port/marina infrastructure. The Minister of Conservation opposed this request because any further development of critical port/marina infrastructure should either be introduced by plan change or when the TRMP is reviewed.

The plan provisions enable for Mooring Areas to be added or removed as required and the Mooring Areas will most likely be reviewed as part of the plan review.

Recommendation: No change.

(4174.1) requests that Mooring areas should not be fixed, because local users should be integral players of the Management Committee to administer rules in their mooring areas. The Harbourmaster has a duty and administrative directive to implement such controls as deemed necessary in matters such as moorings. Local users have the most appropriate and relevant knowledge. Mooring areas should not be fixed as local channel conditions over time change.

If the Mooring Areas were not fixed by location then moorings would become a Permitted Activity anywhere in the CMA. This would be contrary to some of the provisions in the TRMP which prohibit the establishment of moorings in certain areas. In addition, the Harbourmasters powers to decline applications or to place conditions on Mooring Licences is limited to matters of navigational safety. This would make it difficult for mooring applications to be declined for environmental reasons, such as the presence of significant indigenous biodiversity. Regarding locals managing the areas, the inclusion of a Mooring Area Groups in the Bylaw enables those with an interest in the Mooring Areas to have a greater say, if agreed to.

Recommendation: No change.



## Map 180B – Motueka 2

(529.1) requests TDC recognise existing use in particular of the Motueka and Otuwhero Inlet-Marahau estuaries for small boat sailing by ensuring the regulatory methods do not restrict the current public uses of a Mooring Area. (529.3) requests that the Mooring Area be moved further north to start opposite 77 Trewavas St (from 53 Trewavas St). The change is requested to reduce the impact on existing use by sailors and align more closely with the area currently used by informal moorings. (4167.21) opposes the proposed Mooring Area and requests that the Mooring Area is deleted and all resource consents for moorings offshore from Trawavas Street Reserve be publicly notified.

The reasons given (529.3) for shifting the Mooring Area further north is that in establishing the Mooring Area there seems to be an oversight in not recognising existing use in particular of the Moteuka and Otuwhero Inlet – Marahau estuaries for small boat sailing. The Motueka Yacht & Cruising Club conducts organise sailing and racing on the Motueka estuary from the Saltwater Baths every second Saturday over summer and has a history of this over 50 years. With the limited width of deep water and the prevailing northerly sea breeze, tacking upwind utilises the whole width of available water. With the current 10 boats informally moored on the estuary there is space to sail between them but if the area proposed is more densely moored it would present significant constraints, especially for beginner sailors. One of the criteria for establishing a Mooring Area is that it does not restrict the current public uses of that area. The requestor would be happy to meet with staff to explain the issues and discuss options.

Initially, the Mooring Area proposed for Trewavas Street was much larger and following concerns about environmental impacts the area was reduced in size. Further consultation was undertaken based on the reduced area. The area proposed by request (529.3) (further north to start opposite 77 Trewavas St, from 53 Trewavas St) has not been consulted on or formally assessed as part of the environmental assessments. The impacts of the Mooring Area were considered on the summer racing, and it was considered the incompatibilities between the two activities could be resolved through the conditions on the Mooring Licence e.g., off season mooring. Another option is that the Mooring Area is not introduced at this point in time and consideration be given through plan review to shifting the Mooring Area further north. It should be noted that if a Mooring Area is not introduced at this location, then the TRMP continues to provide for moorings at this location as discretionary activities (no consents currently issued).

Recommendation: None pending discussion.

(4167.21) requests that any such consents for moorings be publicly notified. Public notification is usually determined by the framework in the RMA and often at the discretion of the planner processing the application. The existing process is thought to be appropriate.

Recommendation: No change.

## Map 180C - Stephens Bay

(4181.2) identifies that the bay is open to the east and southeast and subject to the sea build up which leaves vessels exposed to the prospect of severe movement leading to breaking away from their mooring. The exposed nature of Stephens Bay is acknowledged and requires the Harbourmaster to specify or approve mooring structures appropriate for the environment. The Mooring Licence will also include conditions regarding mooring structure maintenance which should enable the structure to remain fit for purpose.

Recommendation: No change

(4181.3) considers one commercial operator is more than enough for this small family type bay because the operator's clients park their cars for the full day excursion and so denying others the use of the parking space. (4181.5) also suggests the current commercial operator should be moved to Kaiteriteri. The impact the current commercial operators have on Stephens Bay is acknowledged. Kaiteriteri Mooring Area is restricted in size and unlikely to be able to accommodate any further commercial operators unless there is heavy investment in marine facilities. Under the existing and proposed policy and rules TDC is unable to compel mooring owners to relinquish their consents and move to another area. For this reason, the recommendation

is no change. However, through the plan review there is the opportunity for consideration of new policy regarding the use of Stephens Bay and the requestor is encouraged to engage in this process.

(4181.4) considers for safety reasons there are enough moorings in Stephens Bay. The Harbourmaster acknowledges that Stephens Bay is currently at capacity and suggests there are unlikely to be additional moorings established there in the near future.

Recommendation: Accept, no change.

### Map 180F - Milnthorpe

(4171.3) requests the proposed Mooring Area be enlarged back to the size of the original proposal.”

**Reason:** The Harbourmaster did not identify any issues with original area, more than adequate space, other basins clear of the main tidal flow where visiting vessels can manoeuvre or moor”

Initially the area proposed for the Milnthorpe Mooring Area was extended to incorporate an illegal mooring to the west. Feedback on the extended areas was that the illegal mooring was no longer in use and the proposed area was likely to interfere with navigational passage. For that reason, the Mooring Area was reduced in size. The area is little used for mooring and it is not anticipated that the area will become heavily used following the introduction of the Mooring Area. Should demand increase for moorings within the Milnthorpe then there is the opportunity through the plan review to expand the Mooring Area pending further investigation.

Recommendation: No change.

### Recommendation

(4127.3), (529.3), (4167.21): No recommendation.

(4181.2), (4181.3), (4181.4), (4181.5) (4171.3) (4174.1) (4179.2): No change

## **Appendix 1: Proposed Plan Change - Schedule of Amendments**

*Under separate cover*

**Appendix 2: Submissions**

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*Under separate cover*

## **Appendix 3: Staff Report Recommendations – Schedule of Amendments**

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*Under separate cover*