

Tasman Resource Management Plan

Plan Change 72: Mooring and Coastal Structures

Decision Report

**Pursuant to Clause 10 of the
First Schedule of the Resource Management Act 1991**

6 November 2021

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1.0 Introduction

This report provides the decision of Tasman District Council (Council) for Plan Change 72 – Moorings and Coastal Structures (Plan Change). The decisions on the Plan Change and reasons for those decisions can be found in Section 6 of this report. The specific changes to the Tasman Resource Management Plan (TRMP) arising from this Plan Change can be found in Appendix 1: Schedule of Amendments.

2.0 General-Timeline

- 2.1 The Hearing Panel consisted of Cr Maling (chair) and Crs Dowler and MacKenzie and Ms Tracey Kingi. Apologies were received from Cr Hill.
- 2.2 The hearing was held at the Tasman District Council Chambers on 25 May 2021, 9:30 am. The hearing was undertaken as part of a joint hearing for Plan Change 71 (Coastal Occupation Charges) and the Mooring Area Bylaw.
- 2.3 Submitters present: D Thomas (Torrent Bay Township Committee) and N Clifton (Motueka Yacht & Cruising Club).
- 2.4 Council officers present: T Bray, B Johnson, P Meadows, A Humphries, D Cairney, J MacKay. D Bush-King attended for part of the hearing.
- 2.5 The deliberations were held on 25 May 2021, following the hearing.
- 2.6 The recommendations of the Hearing Panel were finalised on 25 May 2021 and approved by the Strategy and Policy Committee on the 19 August 2021.

3.0 Decision Overview

The submissions received on the Plan Change and evidence presented at the hearing were predominantly in support of the Plan Change, with several suggested amendments to the text to improve the readability or functionality. There were also several submissions requesting parts of the Plan Change be declined. Having had regard to the issues raised by the submitters, evidence presented at the hearing and statutory requirements, the decision of Council regarding the Plan Change is to **Accept with Modification**. A copy of the Plan Change incorporating the modifications can be found in Appendix 1: Schedule of Amendments

After considering the recommendations of the Hearing Panel, the Strategy and Policy Committee made the decision to accept the Plan Change with modification on the 19 August 2021.

4.0 Background

4.1 The Plan Change

The proposed Tasman regional coastal plan was notified in 1995 and became operative in 2011. Since then a number of issues within the coastal marine area have arisen and two significant documents that 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 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 Plan Change is proposed ahead of that review. The Plan Change 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) the current RMA processes were leading to inefficient use of space and overly complex approval processes in some locations.

The moorings review also identified there were three key external documents that 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 and following that consideration a discussion document was prepared and circulated for public feedback over January-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 the existing system in the TRMP for managing moorings (status quo).

The Council resolved on 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 on 18 April 2019 for public feedback. The draft Plan Change and Bylaw were circulated for public feedback 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.

Plan Change timeline

On 27 February 2020 the Strategy and Policy Committee resolved that the Plan Change be notified. On 20 June 2020 the Plan Change was publicly notified with submissions closing on the 27 July 2020.

Twenty submissions were received.

The *Summary of Decisions Requested* was publicly notified on 7 November 2020 with the further submission period closing on 23 November 2020.

One further submission was received from the Minister of Conservation regarding the submission by the Marine Farming Association.

The hearing was held at the Tasman District Council Chambers on 25 May 2021, 9:30 am. The deliberations were also held on 25 May 2021, following the hearing. The hearing was a combined hearing with submissions on this Plan Change heard at the same time as the submissions on Proposed Plan Change 71- Coastal Occupation Charges and the Mooring Area Bylaw.

5.0 Statutory Context

5.1 Introduction

The Resource Management Act 1991 (RMA) provides the statutory framework for decision-making on Plan Changes and Part 1 of the Schedule 1 applies. After considering a plan change, Clause 10 of the Schedule 1 requires Council to give a decision on the provisions and matters raised in the submissions. The decision must include the reasons for accepting or rejecting submissions and must include a further evaluation of the plan change in accordance with section 32AA (if changes are made); and may include consequential alterations and any other matter relevant to the plan change arising from submissions. Council is not required to address each submission individually in the decision.

Council has delegated the authority to make decisions on plan changes to the Strategy and Policy Committee and by resolution on 19 August 2021 the Strategy and Policy Committee accepted the recommendations from the Hearing Panel and approved notification of this decision.

The following documents have been considered in making this decision and due consideration and weight has been given to the various provisions. The key provisions are detailed below.

5.1.1 Resource Management Act 1991

Section 32 and Section 32AA

A detailed Section 32 report accompanied the Plan Change and the matters raised in the Section 32 report were further considered in the Section 42A report and in the deliberations. Section 32AA requires a further evaluation of any changes that have been made to the Plan Change after the Section 32 report was completed. The Committee has decided to accept the majority of the Plan Change without modification. Where modifications occurred the section 32AA was undertaken as part of the decision-making process and noted in this report in accordance with S32AA(1)(d)(ii) as the changes made are minor in nature.

5.1.2 New Zealand Coastal Policy Statement 2010

The NZCPS sets out objectives and policies for the sustainable management of New Zealand's coastal environment. The regional coastal plan is required to give effect to the objectives and policies of the NZCPS. The regional coastal plan part (III) of the Tasman Resource Management Plan made operative prior to the current NZCPS coming into effect. For that reason, it only partially gives effect to the objectives and policies of the NZCPS. Until the NZCPS is fully given effect to in the Tasman Resource Management Plan (or its successor), significant weight is required to be given to the objectives and policies of the NZCPS in making a decision on this plan change or relevant resource consent applications. There were a number of submissions requesting the Plan Change give greater effect to the NZCPS – particularly regarding natural character and outstanding natural landscapes and features. Council acknowledges the need to implement the NZCPS through its plan and is currently undertaking a comprehensive review of the TRMP including the coastal parts of the plan. Council consider the comprehensive review the most appropriate avenue for implementing the NZCPS. . This is a significant undertaking and while it has been commissioned, it will not be completed before this Plan Change is made operative.

6.0 Decision and Reasons for the Decision

This section contains a summary of submissions, summary of evidence, the decision and the reasons for the decision. Section 6.1 addresses the Plan Change as a whole and Sections 6.2- 6.26 provides the decision and reasons for specific changes sought through the submissions. A consolidated copy of the changes arising from the decisions can be found in Appendix 1: Schedule of Amendments.

6.1 Plan Change 72 – as a whole

6.1.1 Introduction

This decision considers the Plan Change as a whole.

Summary of Submissions

The following submissions were received in support, support in part or opposed in part the provisions in the 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 submissions were not addressed in Sections 6.2 - 6.26 and, for that reason, the decisions on these submissions have been included in this section.

- **(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.

Summary of the Section 42A Report

It was recommended that the Hearing Panel accept in part the decision sought by the submitters supporting the plan change (subject to any modifications arising from the other Topics).

Summary of Evidence Presented at the Hearing

The Torrent Bay Township Committee attended the hearing and spoke in support of the Plan Change.

6.1.2 Decision

That the Strategy and Policy Committee **accepts the Plan Change with modifications**, as detailed in Appendix 1: Schedule of Amendments. The modifications and the reasons for the modifications can be found in Sections 6.2-6.26.

Submissions in support of provisions in the Plan Change which are not modified by the decision are accepted.

Those submissions in support of provisions which are modified by the decision are accepted in part, to the extent that the provision has been modified.

6.1.3 Reasons

(1050.4) The information requested for inclusion and consideration to give effect to the NZCPS has been commissioned and will be incorporated into the Tasman Environment Plan (TEP) along with a full planning framework to give effect to the NZCPS. A strategic planning evaluation for the Plan Change was carried out based on the information held or commissioned by Council. Based on that evaluation, 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 or a plan change.

(2971.1) The submission supports provisions in the TRMP and in the Plan Change, this support is accepted with no changes required to the Plan Change provisions.

(4173.2) 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. No change is required to the Plan Change provisions.

6.2 Amendments Sought to the Definitions

6.2.1 Introduction

Seven submissions were received requesting amendments to the definitions or the inclusion of new definitions to clarify the meaning of words used in the TRMP/ Plan Change. There was one further submission in support of a submission.

Summary of Submissions

(1050.5) Friends of Nelson Haven & Tasman Bay

Include water-based activities in meaning [Commercial Activity]

(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.

(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 Maine 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.](#)

(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.

(4169.1) Sanford Ltd

Exclude from the Plan Change moorings associated with aquaculture activities.

Summary of the Section 42A Report

Recommendation- No changes.

Summary of Evidence Presented at the Hearing

No material was presented at the hearing regarding these submissions.

6.2.2 Decision

No change to the Plan Change arising from these submissions.

6.2.3 Reasons

The inclusion of the words “water-based activities” in the definition of “commercial activity” would have an effect that was beyond the scope of the Plan Change and for this reason the request was not accepted.

A number of changes were requested regarding the definition of mooring and there were also requests for new definitions to ensure that marine farming activities were not caught by the definitions (e.g “craft”). For the reasons discussed in the Section 42a report it was considered that no changes were required because the existing definitions, plan provisions and provisions in other legislation achieved the outcome the submitters were requesting.

6.3 20.1.3.2A: Minimisation of Moored Craft Occupation

6.3.1 Introduction

Four submissions were received regarding policy 20.1.3.2A. Two submissions supported the policy and two submissions sought amendments to the wording.

Summary of Submissions

(1050.3) Friends of Nelson Haven & Tasman Bay
Support.

(1050.6) Friends of Nelson Haven & Tasman Bay
20.1.3.2A(b) Make efficient use of public space

(1050.7) Friends of Nelson Haven & Tasman Bay
20.1.3.2A(c) Reword

(4167.1) Mosley, Michael Paul
Support.

Summary of the Section 42A Report

The support should be accepted pending the decision on submissions 1050.6 & 1050.7.
No recommendation for submissions (1050.7) & (1050.6).

Summary of Evidence Presented at the Hearing

No material was presented at the hearing regarding these submissions

6.3.2 Decision

The support is accepted with no changes to the Plan Change arising from these submissions.

6.3.3 Reasons

Regarding the requests for changes to the wording, insufficient information was provided to enable the Committee to understand the nature of the requested.

6.4 20.1.3.2C: Interference with Mooring Activities

6.4.1 Introduction

One submission was received which opposed Policy 20.1.3.2C or alternatively sought amendments to the text (4167.4).

Summary of Submissions

(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.

Summary of the Section 42A Report

Recommended no change.

Summary of Evidence Presented at the Hearing

No material was presented at the hearing regarding this submission.

6.4.2 Decision

No changes to the Plan Change arising from this submission.

6.4.3 Reasons

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. The submitter 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 those activities. 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. For these reasons the decision was made to neither delete or amend the policy.

6.5 20.1.3.2D: Effects of Granting New or Existing Permits

6.5.1 Introduction

Two submissions were received supporting Policy 20.1.3.2D (4167.4) & (1050.8) and one submission sought an amendment to the text.

Summary of Submissions

(1050.8) Friends of Nelson Haven & Tasman Bay

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

(4167.3) Mosley, Michael Paul

Supported.

Summary of the Section 42A Report

Accept both submissions, 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.](#)

Summary of Evidence Presented at the Hearing

No material was presented at the hearing regarding these submissions

6.5.2 Decision

Accept the support and 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.](#)

6.5.3 Reasons

The text change suggested improves the wording of the policy. The change is minor in nature and the evaluation required by Section 32AA identifies no issues with the proposed request.

6.6 20.1.20: Regulatory Methods

6.6.1 Introduction

Four submissions were received regarding the Methods of Implementation 20.1.20.1 (1050.9) (327.3) (4179.4) & (529.1). Two submissions sought changes to the wording and the third submission requested additional text. There was one further submission in support of (4179.4).

Summary of Submissions

(1050.9) Friends of Nelson Haven & Tasman Bay

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

(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.

(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.

Summary of the Section 42A Report

Recommend the word “design” be inserted after the word “space” in 20.1.20.1(fa) and the following new 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.](#)

No recommendation pending a discussion on the need to recognise small boat racing.

Summary of Evidence Presented at the Hearing

The Motueka Yacht and Cruising Club attended the hearing and presented evidence requesting that the mooring area be moved. There was also a request that more control be established over the use of the public area regarding boats.

6.6.2 Decision

Amend as follows

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

Add the following new text

20.1.20.1(j) Periodic surveys of Mooring Areas be undertaken for marine pests in conjunction with the Top of the South Biosecurity Partnership.

6.6.3 Reasons

The request to insert the word “design” better describes the scope of the matters covered by the Bylaw and would be an improvement, with minor effect.

The requested text change which sought to add the words “relating to craft” would improve the readability; however, this request affects a provision not included in the Plan Change and is considered beyond the scope of the Plan Change.

The appropriateness and location of the Motueka 2 Mooring Area and its impact on the small boat racing was discussed and with the substantive decision written up in Section 6.26 (Map180B) . The concerns raised by the Motueka Yacht and Cruising Club were considered valid and the decision was made to address those concerns through the bylaw and mooring licence provisions following discussions between the Club and the Harbourmaster. For this reason, no change was required to the Regulatory Methods.

Periodic surveys of the CMA for marine pests already occurs, largely dependent on need and the availability of funds, and Rule 25.1.2.1(f) requires structure owners keep structures free of any pest or pest agent declared under the Biosecurity Act 1993. The inclusion of a method of implementation supporting periodic surveys will help ensure that Mooring Areas are kept free of marine pests as well as help give effect to Policy 12 of the NZCPS. For these reasons the request was accepted.

6.7 Chapter 21: Effects on Coastal Marine conservation, Heritage, Access and Amenity Values

6.7.1 Introduction

One submission was received regarding the heading for Chapter 21

Summary of Submissions

(1050.10) Friends of Nelson Haven & Tasman Bay

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

Summary of the Section 42A Report

Recommendation – no change

Summary of Evidence Presented at the Hearing

No material was presented at the hearing regarding these submissions

6.7.2 Decision

No change to the Plan Change arising from this submission

6.7.3 Reasons

The change requested affects text that does not form part of the Plan Change. 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 possibly aid the reader in understanding the scope of the chapter. The heading could be improved but it is considered the best place to do this is through the plan review.

6.8 21.0: Introduction

6.8.1 Introduction

Two submissions were received regarding Chapter 21.0 Introduction (1050.11) & (4167.5). Both submissions supported the new wording and one (1050.11) submission sought to amend the wording.

Summary of Submissions

(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.

(4167.5) Mosley, Michael Paul

Support

Summary of the Section 42A Report

The following was recommended

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.”

Summary of Evidence Presented at the Hearing

No material was presented at the hearing regarding these submissions

6.8.2 Decision

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.

6.8.3 Reasons

The requested wording improves the Plan Change and for this reason the decision was to accept the request.

6.9 21.1.3: Natural Character Policies

6.9.1 Introduction

Seven submissions were received regarding the natural character policies (1050.15), (1050.12), (1050.13), (1050.1), (849.1), (4167.6) & (4167.7). Five submissions supported the proposed policies, one submission requested an amendment to the text, and one submission requested a new policy.

Summary of Submissions

(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.

(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”.

(849.1) Heritage New Zealand, (1050.13) Friends of Nelson Haven & Tasman Bay; and (4167.6) Mosley, Michael Paul

21.1.3.5 Supported

(4167.7) Mosley, Michael Paul; and (1050.14) Friends of Nelson Haven & Tasman Bay

21.1.3.6 Supported

Summary of the Section 42A Report

Recommended no changes

Summary of Evidence Presented at the Hearing

No material was presented at the hearing regarding these submissions

6.9.2 Decision

No changes to Plan Change arising from these submissions.

6.9.3 Reasons

TDC has undertaken a natural character study for the district and the draft document identifies areas of high, very high and 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.

Policy 21.1.3.4 does not form part of the Plan Change and is only shown in the plan change to provide context for 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 the Plan Change, the decision was made to not adopt the requested changes.

6.10 21.1.20.1: Regulatory Methods

6.10.1 Introduction

Five submissions were received regarding regulatory methods (1050.16), (1050.17), (1050.18), (4167.8) & (4167.9). Four submissions supported the proposed methods, and one submission requested an additional method.

Summary of Submissions

(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.

(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

Summary of the Section 42A Report

Recommendation no changes.

Summary of Evidence Presented at the Hearing

No material was presented at the hearing regarding these submissions.

6.10.2 Decision

No changes to the Plan Change arising from these submissions.

6.10.3 Reasons

TDC has undertaken a natural character study for the district and the draft document identifies areas of high, very high and 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.

6.11 21.2: Protection of Habitats and Ecosystems

6.11.1 Introduction

Four submissions were received regarding this section. (1050.19), (1050.20), (1050.24) & (4167.10). One submission was in support and three submissions requested amendments.

Summary of Submissions

(1050.19) Friends of Nelson Haven & Tasman Bay

Amend heading to add: “including Ingenious Biological Diversity (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.

(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”.

(4167.10) Mosley, Michael Paul

Supported

Summary of the Section 42A Report

Recommendation no change

Summary of Evidence Presented at the Hearing

No material was presented at the hearing regarding these submissions

6.11.2 Decision

No changes to the Plan Change arising from these submissions.

6.11.3 Reasons

TDC 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 are 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 was decided that the requested wording should not be accepted.

6.12 21.2.3.18: Limiting Structures in CMA adjoining Abel Tasman National Park

6.12.1 Introduction

Eight submissions were received regarding Policy 21.2.3.18 (1050.22), (1050.23), (4181.1), (4170.1), (4127.4), (4127.5), (4172.1) and (2971.2). There was one submission in support of the policies (except 21.2.3.18(e)) and the remaining six submissions sought amendments to the text.

Summary of Submissions

(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”.

(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.

(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.

Summary of the Section 42A Report

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

No change (4181.1)

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.

Accept (4127.4) & (4127.5). 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;~~

Summary of Evidence Presented at the Hearing

The Torrent Bay Township Committee attended the hearing and spoke in support of limiting the moorings to adjoining property owners.

6.12.2 Decision

(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.

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;~~

6.12.3 Reasons

Submission (1050.23) requests Policy 21.2.3.18(e) be amended. 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 and for that reason the wording change is accepted.

Submission (4181.1) requests that the right to moor in Stephens Bay is limited to landowners. 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 request is considered beyond the scope of the Plan Change and has not been accepted.

Submission (4127.4) & (4127.5) request the deletion of the words “Two boat ramps at Totaranui” to remedy a duplication between Policy 22.2.3.18, Method of Implementation 21.2.20.1 and the structures listed in Sch. 25A. The reference to the boat ramps in 21.2.3.18(b) and 21.2.20.1(b)(ii) is a duplication and the text is not required, for that reason the request was accepted.

6.13 21.2.20: Regulatory Methods

6.13.1 Introduction

Four submissions were received regarding policy 21.2.20 & 21.2.20.1 (4167.11) (1050.25) (1050.26) (1050.27). There was one submission in support and the remaining three sought amendments to the text.

Summary of Submissions

(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).

(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”.

Summary of the Section 42A Report

Support accepted

If submissions 1050.20 & 24 were accepted, then the new method (1050.25) should also be accepted. If accepted, then redrafting of the proposed wording was suggested to fit within the general drafting style used in the Plan.

Recommend that (1050.23) be accepted and (1050.27) should also be accepted as a consequential amendment.

Summary of Evidence Presented at the Hearing

No material was presented at the hearing regarding these submissions

6.13.2 Decision

Amend the wording to 21.2.20.1(b)(v) as follows:

(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;

6.13.3 Reasons

The proposed amendment is a consequential amendment arising from the decision to accept the wording change proposed for 21.2.3.18(e) (10.50.23).

6.14 21.3.2: Objective

6.14.1 Introduction

Two submissions were received regarding Objective 21.3.2 (1050.28) & (327.5). Both submissions asked for amendments to the text.

Summary of Submissions

(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”.

(327.5) Golden Bay Marine Farmers Consortium Ltd

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

Summary of the Section 42A Report

No changes recommended

Summary of Evidence Presented at the Hearing

No material was presented at the hearing regarding these submissions

6.14.2 Decision

No changes to the Plan Change arising from these submissions.

6.14.3 Reasons

Objective 21.3.2 is not amended by the Plan Change 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.

Objective 21.3.2 is not amended by the Plan Change and the Plan Change does not address aquaculture. For this reason, the request (327.5) is considered beyond the scope of the Plan Change.

6.15 21.3.3: Natural Features Policy

6.15.1 Introduction

Five submissions were received regarding policy 21.3.3 (4167.12), (1050.29), (1050.30), (1050.31), (849.3). Three submissions were in support and the remaining two requested amendments to the text.

Summary of Submissions

(4167.12) Mosley, Michael Paul

21.3.3 Support

(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 word “modification”.

(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.”

Summary of the Section 42A Report

Support was accepted.

No changes recommended.

Summary of Evidence Presented at the Hearing

No material was presented at the hearing regarding these submissions

6.15.2 Decision

No changes to the Plan Change arising from these submissions.

6.15.3 Reasons

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 it would be difficult to apply the wording as written. 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. For these reasons the requested changes are unable to be implemented in this Plan Change but will be through the TEP.

6.16 21.3.20: Regulatory Methods

6.16.1 Introduction

Two submissions were received regarding Policy 21.3.20 (4167.13) & (1050.32). There was one submission in support and the remaining submission sought an amendment to the text.

Summary of Submissions

(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.

Summary of the Section 42A Report

Support accepted

Recommend no changes.

Summary of Evidence Presented at the Hearing

No material was presented at the hearing regarding these submissions

6.16.2 Decision

No changes to the Plan Change arising from these submissions.

6.16.3 Reasons

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. For these reasons, the requested changes are unable to be implemented in this Plan Change but will be through the TEP.

6.17 21.6.1 & 21.6.2: Public Access

6.17.1 Introduction

Two submissions were received regarding Sections 21.6.1 and 21.6.2 (1050.33), (1050.34). Both submissions seek amendments to the text.

Summary of Submissions

(1050.33) Friends of Nelson Haven & Tasman Bay

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

(1050.34) Friends of Nelson Haven & Tasman Bay

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

Summary of the Section 42A Report

No changes recommended.

Summary of Evidence Presented at the Hearing

No material was presented at the hearing regarding these submissions

6.17.2 Decision

No changes to the Plan Change arising from these submissions.

6.17.3 Reasons

The Plan Change 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. The Plan Change 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 TEP. For these reasons, the requested changes are unable to be implemented in this Plan Change but will be considered through the comprehensive plan review.

6.18 21.6.3: Access

6.18.1 Introduction

Eight submissions were received regarding section 21.6.3 (4167.14), (849.4), (4167.15), (4167.16), (1050.35), (1050.36), (1050.37) and (4167.17). There were three submissions in support, three submissions in opposition and two requests for amendments to the text.

Summary of Submissions

(4167.14) Mosley, Michael Paul

21.6.3.1 Opposed.

(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.

(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”

(1050.37) Friends of Nelson Haven & Tasman Bay

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

(4167.17) Mosley, Michael Paul

21.6.3.6 Opposed.

Summary of the Section 42A Report

Support accepted

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.

No change recommended for (4167.16) (1050.36) (1050.37) (4167.17)

Summary of Evidence Presented at the Hearing

No material was presented at the hearing regarding these submissions

6.18.2 Decision

(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

6.18.3 Reasons

(4167.14) opposes Policy 21.6.3.1 for the reason the meaning is unclear. The purpose of the proposed Plan Change wording is 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 wording is considered unclear and is improved by the insertion of the word “those” between “for” and “activities” and the insertion of the wording “consider” before the words “the functional”.

(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. This policy is part of a set of policies that 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. No change to the Plan Change is considered necessary.

(1050.36) and (1050.37) The Plan Change 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 are 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.

(1050.37) 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 occur through the Policy 6 (activities) and Policy 7 (strategic planning) (NZCPS) review work.

6.19 21.6.20: Regulatory Methods

6.19.1 Introduction

Five submissions were received regarding Section 21.6.20.1 (1050.38), (1050.39), (1050.40), (4167.18) and (4167.19). There were three submissions in support and two submissions seeking amendments to the text.

Summary of Submissions

(1050.38) Friends of Nelson Haven & Tasman Bay

21.6.20.1 Support in general

(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”

(1050.40) Friends of Nelson Haven & Tasman Bay

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

Summary of the Section 42A Report

Support accepted

Recommend no changes.

Summary of Evidence Presented at the Hearing

No material was presented at the hearing regarding these submissions

6.19.2 Decision

No changes to the Plan Change arising from these submissions

6.19.3 Reasons

TDC is currently undertaking a landscape and natural features study and following consultation on the areas identified, the study will be incorporated into the TEP maps, along with the planning framework

required under the provisions of the NZCPS. The intention is not to include the new information and policies in the TRMP and for that reason, the requested change is unable to be implemented in this Plan Change but will be through the comprehensive plan review.

6.20 25.1.2: Permitted Activities

6.20.1 Introduction

Five submissions were received regarding Section 25.1.2 (4167.20), (849.5), (4177.1), (4127.2), (529.2). Three submissions were in support and two submissions sought amendments to the text.

Summary of Submissions

(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

(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.

Summary of the Section 42A Report

No changes recommended

Summary of Evidence Presented at the Hearing

The Motueka Yacht and Cruising Club attended the hearing and presented evidence requesting that more control be established over the use of the public area regarding boats.

6.20.2 Decision

No changes to the Plan Change arising from these submissions.

6.20.3 Reasons

The Plan Change provides for short term, occasional live aboard activities to enable the repair and maintenance of boats. The TRMP (Rule 25.1.6.1(c)) currently prohibits longer term/permanent living aboard where the boat is fixed to the land (e.g., on a mooring) and for this reason the request for permanent residential activity cannot be provided for boats moored within the Mooring Areas.

The request that any vessel moored within the Mooring Areas be in a serviceable and seaworthy condition as managed by the Navigation Safety Bylaws has been declined. The Plan Change 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 seaworthiness 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 considered to be beyond the scope of this Plan Change.

6.21 Contravention of a Rule (25.1.2.1(a), 25.1.2.3 and 25.1.5.6A)

6.21.1 Introduction

Three submissions were received requesting changes to the text (1050.41) (1050.42) (1050.43).

Summary of Submissions

(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”

Summary of the Section 42A Report

No change recommended

Summary of Evidence Presented at the Hearing

No material was presented at the hearing regarding these submissions

6.21.2 Decision

No change to the Plan Change arising from these submissions.

6.21.3 Reasons

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. There may be some benefit in the requested changes however, in the absence of an in-depth analysis 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 the Plan Change. A separate assessment and plan change would be required.

6.22 25.1.2.3: Discretionary Activities

6.22.1 Introduction

Three submissions were received regarding Rule 25.1.2.3 (849.6) (4127.6) and (849.7). There was one submission in support and two submissions sought amendments to the text.

Summary of Submissions

(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”

(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.

Summary of the Section 42A Report

Support accepted

Rule 25.1.2.2 has been deleted and the reference should be changed to 25.1.2.1.

Summary of Evidence Presented at the Hearing

No material was presented at the hearing regarding these submissions

6.22.2 Decision

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~~ 25.1.2.1, is a discretionary activity, if it complies with the following conditions:

6.22.3 Reasons

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.

6.23 25.1.5.6A: Permitted Activities (Removal of Structures)

6.23.1 Introduction

Two submissions were received regarding Rule 25.1.5.6A (1050.1) & (849.8). There were two submissions in support and one submission sought amendments to the text.

Summary of Submissions

(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."

Summary of the Section 42A Report

Support accepted.

Recommend amending 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.

Summary of Evidence Presented at the Hearing

No material was presented at the hearing regarding these submissions

6.23.2 Decision

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.

6.23.3 Reasons

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. 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. The requested removal of all derelict, poorly designed unconsented moorings is supported, but unachievable within the timeframe requested.

The changes requested strengthen Rule 25.1.5.6A(f) and better integrate Rule 25.1.5.6A(f) 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. For these reasons the changes requested were accepted.

6.24 25.1.20: Principal Reasons for Rules

6.24.1 Introduction

Four submissions were received regarding Section 25.1.20 (1050.44), (1050.45), (1050.46), (4127.7). The four submissions sought amendments to the text.

Summary of Submissions

(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.”

(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...”

Summary of the Section 42A Report

(1050.44) & (1050.46) – No change.

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

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.

Summary of Evidence Presented at the Hearing

No material was presented at the hearing regarding these submissions.

6.24.2 Decision

Amend 25.1.20 as follows:

... Otherwise, the structure needs to be removed.

[New paragraph:]

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.

6.24.3 Reasons

Section 25.1.20 provides a high-level summary of the reasons for the planning framework within Chapter 25 and has no regulatory effect. The wording in Section 25.1.20 is confusing and where it mentions “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 removal of the wording “structural integrity” in the Plan Change is proposed because that wording 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.

(1050.46) The requested text 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.

(4127.7) Accepted as it corrects an error.

6.25 Schedule 25: Coastal Structures permitted by Rule 25.1.2.1

6.25.1 Introduction

Twelve submissions were received for Schedule 25 (1050.44), (4127.7), (4171.2), (849.9), (4172.4), (4170.2), (4170.3), (4170.4), (2971.3), (2971.4), (2971.5) & (4171.1). There were nine submissions in support and three submissions sought amendments to the text.

Summary of Submissions

(4171.1) Clark, Andy

Amend schedule to include [Milnthorpe] Boat Ramp.

(4171.2) Clark, Andy

Amend schedule to include Pile Mooring.

(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 Pole Moorings] support the retention of the two pole moorings.

Summary of the Section 42A Report

Support is accepted.

Recommended no change except for the amendment of the wording in Sch. 25A(ii)(21) to “Adjoining derelict uncompleted wharf”.

Summary of Evidence Presented at the Hearing

The Torrent Bay Township Committee attended the hearing and spoke in support of legalising all moorings and coastal structures.

6.25.2 Decision

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

6.25.3 Reasons

The requests for two additional structures (the pile mooring and boat ramp at Milnthorpe) to be added to the list of permitted activities in Schedule 25 was not accepted because the environmental effects had not been assessed. It was decided that those two structures should be re-assessed for inclusion as part of the comprehensive plan review.

Amendment to the text for Sch. 25A(ii)(21) (Mangarakau Wharf) from “derelict” to “uncompleted wharf” was accepted. The requested change made the wording consistent with (Sch. 25A(i)(11)) and better reflected the history of the site.

The two pole moorings in Torrent Bay are private structures adjoining a national park. As there is no immediate need to provide for these structures it was decided that the activity status of these structures should be re-considered through the comprehensive plan review.

6.26 Maps 180

6.26.1 Introduction

Ten submissions were received regarding the mapped Mooring Areas (4127.3), (4179.2), (4174.1), (529.3), (4167.21), (4181.2), (4181.3), (4181.4), (4181.5), (4171.3). There was one further submission (4127) in opposition to one submission.

Summary of Submissions

(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 107 Trewavas St).

(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.

(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.

Summary of the Section 42A Report

No recommendation for (4127.3), (529.3) & (4167.21)

Recommend no change for (4181.2), (4181.3), (4181.4), (4181.5) (4171.3) (4174.1) & (4179.2)

Summary of Evidence Presented at the Hearing

The Motueka Yacht and Cruising Club attended the hearing and presented evidence requesting that the mooring area be moved. There was also a request that more control be established over the use of the public area regarding boats.

6.26.2 Decision

No changes to the Plan Change arising from these submissions

6.26.3 Reasons

(4179.2) requested 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 shortage of space and facilities at Port Motueka is acknowledged by TDC and to address those issues a strategic plan for the area is proposed to provide for future use and growth. Any changes needing to be made to implement the strategic plan including any changes required to the Mooring Area will be given effect to through the TEP.

(4174.1) requested that Mooring Areas should not be fixed. However, for this to occur the Mooring Areas would need to be made a Permitted Activity. This would be contrary to some of the provisions in the TRMP that 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. No changes to the Plan Change were required.

Map 180B – Motueka 2

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 the submitter 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 is thought the incompatibilities between the two activities can be resolved through the conditions on the Mooring Licence and following discussions between the Club and the Harbourmaster regarding location and duration of moorings.

(4167.21) 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 considered appropriate.

Map 180C - Stephens Bay

(4181.2) 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 will enable the structures to remain fit for purpose. No change to the Plan Change is necessary.

(4181.3) The impact of the current commercial operators has 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, no change has been made to the Plan Change.

(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. For the reason that further moorings are unlikely, no change to the Plan Change has been made.

Map 180F - Milnthorpe

(4171.3) 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 proposed Mooring Area is used infrequently 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. For this reason, no change is proposed to the Plan Change.

Appendix 1: Schedule of Amendments

[Under separate cover]