

**Tasman Resource Management Plan
Efficiency and Effectiveness Evaluation**

Chapter 24: Noise Emissions

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Executive Summary

This report reviews the effectiveness and efficiency of the provisions in Chapter 24 'Noise Emissions' in the Tasman Resource Management Plan (TRMP).

The chapter is concerned with the effects of noise from activities in the coastal marine area (CMA) on natural character, wildlife, amenity values and people's enjoyment of other activities.

Under the Resource Management Act (RMA) Tasman District Council has a duty to control the emission of noise and the mitigation of the effects of noise in respect of any coastal marine area in the region. The RMA directs that activities in the CMA should not exceed a 'reasonable level'. It also enables the council to prescribe noise emissions standards in the TRMP and resource consents.

Currently, there are no performance standards or related rules specifically addressing noise in the CMA, with Council instead opting to rely on the general noise provisions in the RMA and a range of non-regulatory Plan methods including education and advocacy. The Council has maintained that noise standards in the CMA are difficult to implement, measure and enforce, and are therefore an inefficient and ineffective means of controlling noise.

This approach was supported by the Environment Court, who agreed that the noise provisions of the RMA provide more flexible powers to take the most appropriate measures. The Court found that the TRMP's approach was appropriate for the purpose of managing noise in the CMA.

Effects of noise from marine farming activities in the TRMP's three Aquaculture Management Areas (AMAs) is a matter that can be considered as part of restricted discretionary and discretionary resource consent applications. The AMAs have also been deliberately sited well off shore to help reduce effects on amenity values and natural character.

For other activities requiring consent as discretionary activities in the CMA, including new structures and disturbance of the foreshore and seabed, Council is able to assess effects of noise and impose conditions or decline consent where this is a relevant consideration.

Noise effects in relation to Wainui Bay marine farming activities have been less well addressed. Private Plan Change 61 proposed to introduce noise standards and associated rules to maintain noise emissions within specified limits. However, this was overturned by the Environment Court on appeal and now noise is a matter that can be considered under the discretionary activity rule for marine farming in Wainui Bay, consistent with aquaculture activities in the AMAs.

The Court in this case noted that TDC needed to provide more guidance in the TRMP on matters to be considered when granting marine farming consents, including effects on natural character, landscape and visual amenity and effects of noise.

In addition, the effects of activities on wildlife and amenity values that do not require consent, such as boating or vehicles driving on the foreshore, is largely unknown due to a lack of monitoring information about the effects of permitted activities.

Recommendations

The following recommendations provide a summarised assessment of the effectiveness and efficiency of the specific Chapter 24 provisions. They consider the need for change in the objective and policy framework and intend to inform the review of the TRMP. Refer to the body of this report for full analysis and detailed information from which these recommendations are drawn.

The recommendations provide an initial step in the plan review process. Subsequent information, including from iwi, political and public input, new information and legislative change will affect final proposals.

Objective	Recommendations
<p>General</p>	<p>Review the approach to noise management in the CMA; consider whether reliance on s16 of the RMA is still sufficient to address noise effects and, if not, identify additional / alternative methods for managing noise.</p> <p>Give effect to the NZ Coastal Policy Statement 2010 (particularly preservation of natural character) and the National Planning Standards noise standards.</p> <p>Consider merging Chapter 24 with Chapter 21, as they deal with closely-related issues (i.e. protection of natural character and amenity values, and disturbance of wildlife/habitat).</p>
<p>Objective 24.1.2 A coastal marine area in which noise levels do not adversely affect natural character, amenity values or wildlife in the coastal environment.</p>	<p>Retain intent, but review with regard to noise effects on wildlife (as below).</p>
<p>Policy 24.1.3.1 To avoid, remedy or mitigate adverse effects of noise from activities in the coastal marine area on the natural character of the coastal environment and in places where natural quietness contributes to the amenity value of a coastal locality.</p>	<p>Retain, but review rule sets to determine whether a broader range of activities need to be subject to resource consent/assessment for noise effects.</p>
<p>Policy 24.1.3.2 To avoid, remedy or mitigate adverse effects of noise from activities in the coastal marine area on wildlife, including seabirds and marine mammals, and especially effects on their continued occupation of their usual habitat, including feeding and roosting areas and their ability to breed successfully.</p>	<p>Review noise effects on wildlife in the CMA and how, or whether or not, they may be regulated.</p> <p>Clarify the extent to which noise is an issue for wildlife, as distinct from disturbance from other activities (e.g. proximity of people / boats).</p>

1. Purpose Statement

The purpose of this evaluation of the TRMP is to determine the effectiveness and efficiency of the provisions contained within it. It helps us understand if the TRMP provisions are doing what they're meant to do.

This evaluation process is a fundamental step in the policy review cycle and a requirement of the Resource Management Act. It informs good quality plan-making and helps maintain confidence and integrity in the process.

The results of this evaluation will inform the review of the Tasman Resource Management Plan.

What do the terms mean?

Effectiveness: *“assess the contribution ... provisions make towards achieving the objectives and how successful they are likely to be in solving the problem they were designed to address”*

Efficiency: *“measures whether the provisions will be likely to achieve the objectives at the lowest total cost to all members of society, or achieves the highest net benefit to all of the society”*

(Ministry for the Environment s.32 Guidance)

Key Evaluation Questions

What we need to keep in mind

- ✓ Are we focused on the right issues?
- ✓ Have we done what we said we'd do?
- ✓ Have we achieved what we said we'd achieve?
- ✓ How do we know our actions led to the outcome observed?
- ✓ Have we achieved that outcome at reasonable cost (could we have achieved it more cheaply)? (Enfocus, 2008)

2. Scope

2.1 Regional Plan Provisions Reviewed

The Tasman Regional Coastal Plan is made up of the following parts / chapters of the TRMP:

- Part III ‘Coastal Marine Area’¹ (Chapters 20-26);
- Part V ‘Water’ (parts of Chapters 30 and 31) relating to taking, diverting, using or damming coastal water); and
- Part VI ‘Discharges’ (Chapter 35 and part of Chapter 36) relating to coastal marine discharges).

Chapter 24 is the fifth chapter (out of five) in Part III of the TRMP. It addresses one main issue:

- The effects of noise from activities in the coastal marine area on natural character, wildlife, amenity values and people’s enjoyment of other activities.

One objective and two policies have been adopted in addressing the chapter issues, as shown in Table 1 below.

Table 1: Scope of the Evaluation

Chapter 24	Objective	Policies
24.1 Effects of Noise	24.1.2	24.1.3.1 – 24.1.3.2

The objective seeks to achieve “A coastal marine area in which noise levels do not adversely affect natural character, amenity values or wildlife in the coastal environment”. The two policies deal with effects of noise on the natural character and amenity values, and effects of noise on wildlife.

Regulatory methods adopted in the TRMP to implement the policies include:

- TRMP rules (set out in Chapter 25) that (a) direct (including prohibit) the location of particular activities or the use of particular types of craft; (b) limit the hours or seasons of operations; and (c) limit noise levels of coastal marine activities.

In support of the chapter’s objective, the following non-regulatory methods are set out:

- Education and Advocacy to promote (a) awareness of the effects of noise on fauna inhabiting the coastal environment; and (b) consideration of other people’s values when causing noise in the coastal environment.

The environmental outcomes sought from implementation of the chapter rules and methods are:

1. Continued use and enjoyment of the coastal environment (including land adjoining the coastal marine area) without disruption by noise from marine activities.
2. Continued occupation by wildlife of their usual habitat and continued successful breeding.

1 The coastal marine area extends seaward of the line of mean high water springs to 12 nautical miles offshore and includes all foreshore, seabed and sea in that area and the air space above it

2.2 Timeframe of Evaluation

The evaluation was conducted from July 2019 to March 2020.

2.3 Summary of Methodology

Broadly, the methodology of this evaluation follows the Plan Outcomes Evaluation process. Plan Outcome Evaluation involves:

1. An examination of the outcomes being sought – what are the objectives trying to achieve?
2. Tracking how the plan has been designed to affect the outcomes – do the intentions in the objectives get carried through to the rules and methods? Are the provisions efficient?
3. Assessing if the provisions have been implemented – what evidence is there that the provisions are being applied to relevant activities?
4. Assessing relevant environmental trends and ‘on the ground’ data to conclude if the Plan has been successful in achieving its intentions. This includes consideration of the external factor influences such as legislative changes, national policy statements, case law, significant economic changes, demographics etc.

Throughout the evaluation, there is an emphasis on attributing the activities enabled or controlled by the TRMP to observed outcomes. However, attributing outcomes to the TRMP must always be viewed in the wider context of changes. These are noted where known, but it is beyond the scope of this evaluation to capture all of the changes and influences that affect outcomes in our communities and environment.

Limitations with the Plan Outcome Evaluation approach also arise where environmental outcome data is poor, or where there are multiple factors driving outcomes. Time, resourcing and quality of data also affects the comprehensiveness of the evaluation.

To address some of these limitations, the evaluation process has included a ‘rapid assessment’ technique. The technique draws on the combined knowledge and expertise of local TDC staff, residents, community leaders, and topic experts to create an understanding of plan implementation, efficiency and outcomes. The rapid assessment outputs are supplemented with:

- environmental data or expert reports where available
- Council data (e.g. water quality information, flow monitoring data, consenting and compliance database information, models, monitoring reports required by consent condition)
- mapping and imagery (e.g. GIS, aerial imagery, LiDAR)
- information or reports prepared during plan change processes (e.g. s.32 Reports, Issues and Options papers, technical reports, submissions, community meetings)

The data sources that have been used for evaluating Chapter 24 are shown in Table 2 below:

Table 2: Information Sources Used in Evaluation

Data source/s:	Details and Notes
Rapid Assessment	<ul style="list-style-type: none">• Meeting with policy staff held on 26th September 2019• Workshop with council staff held on 12th December 2019• Meeting with consent staff held on 28th January 2020

Councillor input	<ul style="list-style-type: none"> • Workshop held on 20th May 2020
External reports	<ul style="list-style-type: none"> • Legal report for s35 review, Tasman Law, June 2019 • Iwi management plans
Council reports	<ul style="list-style-type: none"> • Tasman Resource Management Plan Policy Mapping (Leusink-Sladen, 2019) • Stage 2 of TRPS Efficiency and Effectiveness Review: Statutory Obligations (Mason, 2019)

2.4 Summary of Consultation

The following consultation has been undertaken during the preparation of this evaluation.

2.4.1 Tasman District Councillors

A workshop with elected Councillors was held on 20 May 2020 discussing key issues and recommendations identified for this chapter.

No additional matters were raised.

2.4.2 Tasman Environmental Policy Iwi Working Group

The iwi of Te Tau Ihu, as tāngata whenua, have a unique relationship with Tasman District Council. There are a number of legislative requirements which oblige us to engage more collaboratively with iwi and Māori - including provisions in the Resource Management Act, Local Government Act and Treaty of Waitangi settlement legislation. To support this a separate section 35 report with a focus on iwi/Māori provisions has been prepared. Please refer to that report for a record of consultation undertaken.

3. Effectiveness and Efficiency Evaluation

3.1 Context

The primary legislation affecting Chapter 24 is the Resource Management Act (RMA). The purpose of this Act is to promote the sustainable management of natural and physical resources (s5, RMA). Under RMA s30(d)(vi) regional councils have a duty to control the emission of noise and the mitigation of the effects of noise in respect of any coastal marine area in the region (in conjunction with the Minister of Conservation).

A key provision in assisting councils with this function is s16(1) which states that:

Every occupier of land (including any premises and any coastal marine area), and every person carrying out an activity in, on, or under a water body or the coastal marine area, shall adopt the best practicable option to ensure that the emission of noise from that land or water does not exceed a reasonable level.

Section 16(2) also enables national environmental standards, district and regional plans, and resource consents to prescribe noise emission standards.

In addition, sections 326 – 328 set out provisions addressing excessive noise. They enable council enforcement officers to direct a person responsible for making excessive noise to reduce it to a reasonable level, as well as to take compliance action if the direction is not acted upon.

The council must also ‘have particular regard to’ several relevant matters in s7 of the RMA:

- s7(c) *the maintenance and enhancement of amenity values:*
- s7(f) *maintenance and enhancement of the quality of the environment:*

The RMA defines the Coastal Marine Area as meaning:

the foreshore, seabed, and coastal water, and the air space above the water—

(a) of which the seaward boundary is the outer limits of the territorial sea:

(b) of which the landward boundary is the line of mean high water springs, except that where that line crosses a river, the landward boundary at that point shall be whichever is the lesser of—

(i) 1 kilometre upstream from the mouth of the river; or

(ii) the point upstream that is calculated by multiplying the width of the river mouth by 5.

3.1.1 Legislation Changes

The following amendments to the RMA have some bearing on Chapter 24 provisions. They will need to be taken into account when the TRMP is updated.

National Planning Standards – Noise and Vibration Metric Standard

The RMA has been amended to introduce a new type of national direction called national planning standards. These form a standardised national framework for RMA plans and policy statements.

In April 2019 the Ministry for the Environment published a first set of national planning standards to improve the efficiency and effectiveness of the planning system by providing nationally consistency. The Noise and Vibration Metric Standard recognises that noise metrics are used frequently in council plans, but that they have been inconsistently used, formatted and described.

The Standard requires councils to ensure plan rules managing noise emissions and construction vibration are in accordance with mandatory noise measurement methods, symbols, assessment methods and metrics. The Council has a timeframe of five years to implement the noise standard.

The Standard covers measurement of environmental sound, environmental noise, construction noise, airport noise management and land use planning, road-traffic noise for new and altered roads, noise management and land use planning for helicopter landing areas, wind farm noise, port noise management and land use planning, and damage to structures from construction vibration.²

RMA Amendment: Protected Customary Marine Title Areas

A new matter of national importance, s6(g) “*The protection of protected customary rights*”, was added to the RMA following the enactment of the Marine and Coastal Area (Takutai Moana) Act in 2011.³ RMA ss61(2A) and 66(2A) were also amended to require regional councils to be ‘recognise and provide for’ relevant matters relating to customary marine title areas in regional policy statements and plans.

² <https://www.mfe.govt.nz/publications/rma/national-planning-standards>

³ MACA also repealed the earlier Resource Management (Foreshore and Seabed) Amendment Act 2004.

RMA S85A was amended so that plans must not permit activities that would have a ‘more than minor’ adverse effect on a recognised customary activity. Additionally, RMA S104(3)(c) was amended to restrict councils from granting a resource consent that would impact on wāhi tapu or cause ‘more than minor’ adverse effects on the exercise of a protected customary right (without written approval from the customary rights group).

Nine applications in the Tasman District have been made to have customary marine rights formally recognised. Decisions on these applications are pending. The effects of noisy activities on approved customary marine title areas may need to be included as a consideration under the TRMP provisions.

3.1.2 National Directives

NZ Coastal Policy Statement 2010 (NZCPS)

National policy statements are instruments issued under the RMA. The NZCPS is the only mandatory national policy statement and is prepared by the Minister of Conservation. It sets out general objectives and policies for the sustainable management of New Zealand’s coastal environment, which the TRMP is required to give effect to (i.e. implement). The TRMP was made operative prior to the current NZCPS and for that reason only partially gives effect to the objectives and policies of the NZCPS.

Noise is not explicitly referred to in the NZCPS, but it does require the preservation of natural character (which can be impacted on by noisy activities) and the provision of public open space that is compatible with natural values. This needs to be balanced alongside the importance of the coast and CMA on social, economic and cultural wellbeing.

Relevant objectives and policies in the NZCPS 2010 that must be ‘given effect to’ include:⁴

Table 3: NZCPS Provisions Relevant to Noise Emissions in the CMA

NZCPS Objectives	
2.	To preserve the natural character of the coastal environment through recognising the characteristics and qualities that contribute to natural character.
3.	To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment.
6.	To enable people and communities to provide for their social, economic, and cultural wellbeing, recognising that some uses and developments which depend upon the use of natural and physical resources in the coastal environment are important to the wellbeing of people and communities.
NZCPS Policies	
6.	<i>Activities in the Coastal Environment</i> , which recognises (amongst other matters): the contribution that use and development of the CMA can have to social, economic and cultural wellbeing; that some activities have a functional need to be located in the CMA; and that public open space and recreational qualities and values of the CMA need to be maintained and enhanced.
13.	<i>Preservation of Natural Character</i> , which requires avoiding adverse effects of activities on the natural character of the coast.

4 NZCPS provisions are paraphrased here; for the full text see <https://www.doc.govt.nz/globalassets/documents/conservation/marine-and-coastal/coastal-management/nz-coastal-policy-statement-2010.pdf>

18.	<i>Public Open Space</i> , which recognises the need for public open space, including for recreation, that is compatible with the natural values of the coastal environment.
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3.1.3 Relevant Plan Changes

The TRMP has had a constant programme of rolling reviews (variations and plan changes) since it was first notified. The changes have been introduced to address unintended outcomes, new issues, new priorities and legislative requirements. The plan changes relevant to this topic are outlined in Table 4 below.

Where a plan change has been recently introduced (i.e. <3 years) its impact will be difficult to determine with any accuracy as:

- there may have been limited uptake of the plan provisions (i.e. not many activities undertaken that trigger the new rule set) and/or
- the impact of existing use rights and previously consented activities continue
- the impacts may not be highly visible until there is a cumulative uptake of the provision (e.g water permit renewals to include new provisions).

For those reasons, the implementation of plan changes less than 3 years old (from operative date) have not been fully assessed for effectiveness or efficiency.

Table 4: Plan Changes Relating to Chapter 24

Plan Change or Variation	Description of Change and Key Matters
<p>Private Plan Change 61: Wainui Bay Spat Catching</p> <p>Notified 12 March 2016; Decisions notified 10 December 2016; Operative 14 December 2019.</p>	<p>Wainui Bay Spat Catching group requested a change to the TRMP to create a specific aquaculture management area and related provisions in Wainui Bay. This private plan change sought to provide the marine farming industry with certainty that spat catching farms in Wainui Bay can continue beyond the current term of consent (2024). Amended policy and text recognised the national and regional importance of the area for spat catching. No new space or activities were proposed.</p> <p>Under the plan change, applications to continue aquaculture activities after 2024 were to be considered under controlled and restricted discretionary activity rules. Noise effects were proposed to be addressed through application of noise standards, prohibition on noise-producing activities on vessels, and limiting the hours of operation.</p> <p>However, on appeal, the Environment Court determined that aquaculture activities within Wainui Bay should be a fully discretionary activity where TDC could consider any and all relevant effects. The list of assessment matters included in PC61, including the noise standards, were removed as a consequence (discussed further below).</p>

3.1.4 Relevant Case law⁵

Relevant case law concerning the effects of noise in the coastal environment relate to Environment Court decisions on an appeal against Chapter 24 by Yachting NZ and appeals against provisions relating to the establishment of marine farming areas in Golden and Tasman Bays.

Yachting NZ v Tasman District Council W12/2007

Yachting NZ's appeal was centred on a lack of rules in the Proposed TRMP with which to manage noise. They sought inclusion of rules which would set a noise level in the CMA in the same way councils set noise limits for residential and business zones. In particular, Yachting NZ sought a specific standard for noise generated from marine farming activities, to be measured at the boundary of any Aquaculture Management Area (AMA), and a standard to apply to all activities generating noise within the CMA, to be measured at the boundary of any site in a residential zone or dwelling in a rural zone.

In response, TDC believed that a rule imposing noise standards in the CMA would be unnecessary and unworkable. Council considered that the approach taken in the Proposed TRMP, combined with the noise provisions in the RMA, were the most appropriate means of discharging its functions under the Act. This approach involved a combination of spatial separation (e.g. by siting AMAs well offshore), education, mediation, statutory enforcement of the RMA noise provisions, speed restrictions for craft under the (then) Harbour Bylaw, and the opportunity to consider noise likely to arise from any activity in the CMA requiring a resource consent (such as for aquaculture).

The Court agreed with TDC that sections 16 and 326-328 of the RMA provided more flexible powers to take the most appropriate measures. They found that the costs of implementing the proposed noise standards would be disproportionate to the level of effects, and that the rule would be *"difficult, if not impossible, to implement effectively"* (p.28). The Court further found that the use of TDC's current plan methods - the Harbour Bylaw, and the RMA noise provisions and enforcement powers - were suitable for the purpose of managing noise in the CMA.

In conclusion, the Court found that the imposition of a rule in the TRMP setting noise standards for the CMA was unwarranted:

...we consider what is proposed will be ineffective in implementation. There will be no benefit in terms of controlling noise in the CMA over and above the use of the existing statutory powers in the RMA or through the resource consent process. The proposed rule is neither necessary nor appropriate and does not achieve the purpose of the Act. It would not be good sustainable management of the CMA's resources to impose an impractical and potentially unenforceable rule on users of the CMA without better evidence of a real necessity for such a rule (p.29).

Golden Bay Marine Farmers & Others v Tasman District Council

Four substantial reports were prepared by the Environment Court and signed off by the Minister of Conservation in Golden Bay Marine Farmers v Tasman District Council.⁶ These decisions established a new aquaculture planning framework in the region, providing for spat catching and mussel farming within specified AMAs in Golden and Tasman Bays and prohibiting aquaculture elsewhere (with the

5 Information in this section has come from a TDC commissioned report: Tasman Law (June 2019). *Legal Report for Section 35 TRMP Review*.

6 Golden Bay Marine Farmers & Ors v Tasman District Council W42/2001 (First Interim Report); W19/2003 (Second Interim Report); W10/2004 (Third Interim Report); and W89/2004 (Final Report); collectively the Golden Bay Marine Farmers reports (Kenderdine J presiding).

exception of Wainui Bay, see PC61 above). The AMAs were identified well offshore to manage effects of the aquaculture activities, particularly those related to landscape, natural character and amenity (including noise).

Friends of Nelson Haven and Tasman Bay Inc v Tasman District Council

The Environment Court heard an appeal to Plan Change 61 by The Friends of Nelson Haven and Tasman Bay. The appeal sought the deletion of Wainui Bay as an AMA and retention of discretionary activity status for mussel farming at the Wainui Bay location. The main concern was that PC61 would not give effect to Policy 7(1) of the NZCPS with respect to effects on outstanding natural features and landscapes and areas of outstanding natural character, and to provide for their protection and preservation in the TRMP.

The Court noted a policy gap in the overall strategic approach to aquaculture in the TRMP that did not satisfy directives of Policy 7 NZCPS. In particular, the Court was faced with an area within the CMA of Golden Bay that had not been zoned either AMA or Aquaculture Exclusion Area (AEA), but, as the site of a long established and strategically important aquaculture activity of mussel spat catching and spat holding, had no strategic policy base against which an application for the activity to continue could be evaluated.

The court directed that a new Policy (22.1.3.2) be included to alter the planning framework for consideration of a mussel (spat) farming consent application in Wainui Bay. The changes made it clear that Wainui Bay sits outside of the AMA framework. Rule 25.1.4.4 was inserted to provide for mussel farming at the existing Wainui Bay sites as a discretionary activity under the TRMP.

Because the activity status was fully discretionary, the Court determined that there was no need for a list of assessment matters (including noise and other amenity effects) to be included in the TRMP. This is because all relevant matters needed to be considered by TDC and weighed appropriately, and the inclusion of a list risked “*applicants and decision-makers adopting a focus on the matters listed instead of fully considering all relevant matters*” (p.20, Final Decision).

The Court noted that TDC needed to provide more guidance in the TRMP on matters to be considered when granting marine farming consents, including noise:⁷

In addressing PC61 as we have, we do not need to resolve the issues raised in the extensive evidence presented by expert witnesses and local people on the effects of mussel spat catching and spat holding activity at Wainui Bay, including effects on natural character, landscape and visual amenity and effects of noise and light on the amenity values of Wainui Bay. These matters remain for future consideration, whether in the form of a Schedule 1 process designed to give full effect to the NZCPS or through an application to consider a spat catching or spat holding activity at the Wainui Bay aquaculture sites on a discretionary basis (p.37, Interim Decision).

In other words, the Judge directed the issue of noise arising from aquaculture activities at Wainui Bay back to TDC to address through a plan change and/or the resource consent process.

3.1.5 Relevant Iwi Management Plan Provisions

Both the RMA (s66(2A)) and NZCPS 2010 (Policy 2) require TDC to “take into account” any relevant iwi planning document recognised by the appropriate iwi authority (or hapū under the NZCPS) and

7 Friends of Nelson Haven and Tasman Bay Inc v Tasman District Council [2018] NZEnvC 130 (Final Decision) and 047 (Interim Decision) (Kirkpatrick J presiding).

lodged with the council, to the extent that its content has a bearing on resource management issues in the district.

Three Iwi Management Plans (IMPs) have been lodged with TDC by Iwi having interests in the Tasman District:⁸

1. Ngati Koata No Rangitoto Ki Te Tonga Trust Iwi Management Plan (2002)
2. Te Rūnanga O Ngāti Kuia, Pakohe Management Plan (2015)
3. Ngāti Tama ki Te Waipounamu Trust Environmental Management Plan (2018)

Two other IMPs prepared by Iwi with an interest in Tasman have been lodged with Nelson City Council:⁹

4. Nga Taonga Tuku Iho Ki Whakatu Management Plan (2004)
5. Te Ātiawa Ki Te Tau Ihu Iwi Environmental Management Plan (2014)

Relevant provisions in the IMPs will need to be taken into account when the TRMP is updated following the present review. Examples of IMP provisions relating to effects of noise are shown in Appendix 1 (p.18).

3.1.6 Other Factors

Abel Tasman Foreshore Scenic Reserve Management Plan 2012¹⁰

The Abel Tasman Foreshore Scenic Reserve was gazetted as scenic reserve on 25 January 2007. A large portion of the reserve adjoins land protected within Abel Tasman National Park, including the foreshore of all the islands in the park. Other parts of the reserve adjoin privately-owned land and reserves administered by TDC. The reserve comprises 774 ha of foreshore, which includes the estuaries and a narrow strip of land lying between the Mean High Water Mark and Mean Low Water Springs.

The primary purpose of designating the foreshore as scenic reserve was to maintain the quality of the visitor experience while protecting the natural features that make the Abel Tasman foreshore so special, including the scenic character of the coastline. The management plan is concerned with:

- i. Continuing to allow the public and adjoining landholders to use and enjoy the area as they have for many years, with few constraints;
- ii. Maintaining and enhancing the experiences of visitors and adjoining landholders; and
- iii. Reducing and mitigating the effects of visitor use, particularly through management of commercial activities.

Permission is required from the Department of Conservation for certain activities in the reserve, by way of a 'concession', including for transport services and commercial guiding (motorised and non-motorised craft).

Noise is a matter that the Department takes into account when granting concessions and setting conditions. The use of quiet technology is encouraged (e.g. in relation to engine noise) and

8 <https://www.tasman.govt.nz/my-region/iwi/iwi-management-plans/>

9 <http://www.nelson.govt.nz/council/plans-strategies-policies/strategies-plans-policies-reports-and-studies-a-z/iwi-management-plans>

10 <https://www.doc.govt.nz/about-us/our-policies-and-plans/statutory-plans/statutory-plan-publications/conservation-management-plans/abel-tasman-foreshore-scenic-reserve-management-plan/>

equipment such as public address systems and generators, which are likely to produce an excessive noise that adversely affects natural quiet and the experience of other visitors, are not considered to be appropriate. The reserve management plan stresses that any activity that may increase the noise environment on the reserve should not be approved.

3.2 Internal Consistency of Provisions

Overall, the internal consistency of Chapter 24 provisions has been assessed as **variable** as shown in Table 5 below.¹¹ The chapter deals with noise emanating from activities in and on CMA. A key feature is the effect of noise on amenity and character of land, being the perception of noise as heard from land. The chapter is narrowly focussed with a single objective statement and just two policies giving rise to rules that may implement it.

Table 5: Chapter 24 Summary of Internal Consistency

Objective	Internal Consistency	Comment
<p>24.1.2 A coastal marine area in which noise levels do not adversely affect natural character, amenity values or wildlife in the coastal environment.</p>	<p>Variable</p>	<p>Two policies implement this objective. In simple terms they address ‘effects on natural quietness’ and ‘ecosystem values/habitat’, namely adverse effects on people and non-human effects.</p> <p>Rules appear to implement by way of amenity provisions addressing noisy activities as perceived by people in relation to aquaculture activities. Regarding wild-life values (the second policy) this is less clear. No specific rules appear to protect non-human values from noisiness in the CMA.</p>

To improve the internal consistency of the current provisions it was recommended that Chapter 24 be reviewed to consider noise effects on wildlife and habitats and how, or whether or not, they may be regulated.

3.3 Evidence of Implementation

Given TDC’s preference to rely on methods other than rules in the TRMP for managing noise effects in the CMA, no resource consent applications have been received by Council due solely to the effects of noise. As noted previously, instead of TRMP rules Council relies on the general s16 provision in the RMA requiring noise to be maintained at a ‘reasonable level’, as well as education, advocacy, and speed restrictions in the (now) Navigation Safety Bylaw.

In support, resource consent applications for aquaculture do have noise-related assessment matters that can be taken into account. Therefore, while no specific noise standards are applied in the TRMP for aquaculture, noise is included as an assessment matter within the TRMP’s restricted discretionary and discretionary rule framework for AMAs (Rules 25.1.4.2, 25.1.4.3 and 25.1.4.5). This

11 Information in this section has come from a TDC commissioned report: Leusink Sladen, S. (Dec 2019). *Tasman Resource Management Plan Policy Mapping - Review of the Internal Consistency and Integrity of Plan Objectives, Policies and Rules Parts III – VI*.

enables councils to apply conditions of consent to avoid noise effects arising from marine farm activities on natural character and amenity values, or decline applications if noise effects cannot be adequately avoided or mitigated.

Effects of noise can also be considered for any application requiring resource consent as a discretionary activity in the CMA, including for new structures and disturbance of the foreshore and seabed. In support, information requirements listed in Chapter 26 identify noise and effects on amenity values as something to be addressed in resource consent applications in the CMA (TRMP, pp.26/2-3):

26.2.1 Coastal Permits for Disturbances, Structures or Occupation

- 26.2.1.8 'Effects of the activity on areas of natural character and on landscape, recreational, historical, cultural, amenity or heritage values'.
- 26.2.1.13 'Noise likely to be generated by the activity'.

26.2.2 Coastal Permits for Aquaculture

- 26.2.2.5 'Effects on habitats and species, natural character and amenity values' for aquaculture activities.

There are a number of permitted activity rules in the TRMP that allow certain activities to be carried out without consent provided they do not damage, destroy or disturb coastal marine habitat or species. This includes vehicles driving across or along the foreshore, and the use of any craft for navigation purposes on the surface of coastal waters. However, the extent to which these permitted activities avoid effects on marine wildlife is unknown, due to a lack of monitoring information around the effects of permitted activities. There is some concern that vehicle access on beaches is disturbing nesting bird sites (see Chapter 21 Evaluation Report).

The reason for the lack of noise standards in the CMA can be traced back to 2006 when council was involved in an appeal to the Environment Court made by Yachting NZ (discussed above), who wanted specific performance standards for noise to be included in the TRMP. It was the view of TDC's Harbourmaster at the time (and the Court agreed) that there was no practical way for such a standard to be enforced. This view was based on noise-measuring tests carried out on the council's Harbourmaster vessel, which found that it was not possible to distinguish between the noise created by the vessel and the noise-generating activity being monitored. The tests were conducted in 10 locations across Tasman and Golden Bays and were particularly focused on aquaculture management areas (AMAs).

The following quote from the Harbourmaster's report to Council summarises the findings of the test:¹²

The general principal that is very important to convey, is that measuring noise on the water is a completely different kettle of fish to measuring similar noise on land. The reason is that on land, one simply sets up the sound level meter and (very generally) allows it to run until the required information is gathered... In general on land one can adequately ensure that the presence of the noise meter and its operator on the noise environment is non-existent or negligible.

The same cannot be true of the marine environment. To be there to measure noise, one must have arrived in a boat. Even at anchor there will be interaction of the boat with the water, and that causes noise... The conclusion that one is drawn inevitably to, is that noise measurements on water can only

12 E 450 *Practicality of Noise Level Assessment in the CMA*, Memorandum to Environment and Planning Manager, 21-June 2006

effectively be undertaken if the water has no waves. The prospect of no waves occurring in any of our AMAs is so remote that it can be considered unattainable.

The recommendation was to rely instead on the mix of methods set out in the TRMP, including reliance on s16 of the RMA.

3.4 Effectiveness and Efficiency

This section provides an analysis of the efficiency and effectiveness of Chapter 24 of the TRMP. It focuses on the achievement of objectives contained within the chapter. The analysis draws on the information from earlier sections, including council reports and the opinion of experienced plan users.

Chapter 24 Objective	Analysis	Rating of Achievement
<p>Objective 24.1.2 A coastal marine area in which noise levels do not adversely affect natural character, amenity values or wildlife in the coastal environment.</p> <p>Policies 24.1.3.1 – 20.1.3.2</p>	<p>There are no performance standards or related rules specifically addressing noise in the CMA, with Council instead opting to rely on the general noise provisions in the RMA and a range of non-regulatory Plan methods including education and advocacy.</p> <p>The Council has maintained that noise standards in the CMA are difficult to implement, measure and enforce, and are therefore an inefficient and ineffective means of controlling noise.</p> <p>This approach was supported by the Environment Court, who agreed that the noise provisions of the RMA provide more flexible powers to take the most appropriate measures. The Court found that the TRMP’s approach was appropriate for the purpose of managing noise in the CMA.</p> <p>With respect to aquaculture, effects of noise from marine farming activities in the TRMP’s three Aquaculture Management Areas (AMAs) is a matter that can be considered as part of restricted discretionary and discretionary resource consent applications. The AMAs have also been deliberately sited well off shore to help reduce effects on amenity values and natural character.</p> <p>For other activities requiring consent as discretionary activities in the CMA, including new structures and disturbance of the foreshore and seabed, Council is able to assess effects of noise and impose conditions or decline consent where this is a relevant consideration.</p> <p>Noise effects in relation to Wainui Bay marine farming activities have been less well addressed. Private Plan Change 61 proposed to introduce noise standards and associated rules to maintain noise emissions within specified limits. However, this was overturned by the Environment Court on appeal and now noise is a matter that can be considered under the discretionary activity rule for marine farming in Wainui Bay, consistent with aquaculture activities in the AMAs.</p> <p>The Court in this case noted that TDC needed to provide more guidance in the TRMP on matters to be considered when granting marine farming consents, including effects on natural character, landscape and visual amenity and effects of noise.</p> <p>In addition, the effects of activities on wildlife and amenity values that do not require consent, such as boating or vehicles driving on the foreshore, is largely unknown due to a lack of monitoring information about the effects of permitted activities.</p>	<p>Partial achievement</p>

Appendix 1: Iwi Management Plan Provisions relating to Noise Emissions

Examples of provisions from Te Tau Ihu Iwi Management Plans relevant to the matters addressed in Chapter 24 'Noise Emissions' are shown below. For the full text please refer the individual plans.

Noise Effects

Boating in ecologically and/or culturally sensitive areas can cause noise pollution.

Noise pollution in Kahurangi and Abel Tasman National Parks, where boats and airplane noise is amplified by maunga and the surrounding landscape.

Commercial Surface Water Activities can cause noise pollution from motors, loudspeakers, and vessel horns.

The effects of noise can diminish the mauri of cultural resources and wāhi tapu.

Desired Outcomes

Recognition of the role of tangata whenua as rangatira and kaitiaki of nga taonga tuku iho.

Tangata whenua, as kaitiaki, will be effective in ensuring that the mauri or essential life principle of the natural world within the rohe is maintained and enhanced.

Water bodies are healthy and maintained to a level sufficient to preserve the mauri of the water body.

Culturally sensitive coastal marine environments are protected from the adverse effects of commercial surface water activities, including noise.

Cultural heritage is protected from the adverse effects of noise.