



Notice is given that an ordinary meeting of the Strategy and Policy Committee will be held on:

Date: Thursday 19 August 2021
Time: 9.30 am
Meeting Room: Tasman Council Chamber
Venue: 189 Queen Street
Richmond

Strategy and Policy Committee

AGENDA

MEMBERSHIP

Chairperson	Cr K Maling	
Deputy Chairperson	Cr C Hill	
Members	Mayor T King	Cr D McNamara
	Cr S Bryant	Cr D Ogilvie
	Cr C Butler	Cr T Tuffnell
	Cr M Greening	Cr A Turley
	Cr B Dowler	Cr T Walker
	Cr C Mackenzie	Cr D Wensley

(Quorum 7 members)

Contact Telephone: 03 543 8578
Email: [tara.fifield@tasman.govt.nz](mailto: tara.fifield@tasman.govt.nz)
Website: www.tasman.govt.nz

AGENDA

1 OPENING, WELCOME

2 APOLOGIES AND LEAVE OF ABSENCE

Recommendation

That apologies be accepted.

3 PUBLIC FORUM

4 DECLARATIONS OF INTEREST

5 LATE ITEMS

6 CONFIRMATION OF MINUTES

That the minutes of the Strategy and Policy Committee meeting held on Thursday, 8 July 2021, be confirmed as a true and correct record of the meeting.

That the confidential minutes of the Strategy and Policy Committee meeting held on Thursday, 8 July 2021, be confirmed as a true and correct record of the meeting.

7 REPORTS OF COMMITTEE

Nil

8 PRESENTATIONS

8.1 (10.45 am) Water Futures Survey Presentation 3

9 REPORTS

9.1 (9.35 am) Chair's Report 4

9.2 (9.40 am) Coastal erosion protection structures on Council Reserve Land Policy 6

9.3 (10.10 am) Strategic Policy and Environmental Policy Activity Report 51

9.4 (11.00 am) Action Sheet 115

10 CONFIDENTIAL SESSION

Nil

8 PRESENTATIONS

8.2 WATER FUTURES SURVEY PRESENTATION

Information Only - No Decision Required

Report To:	Strategy and Policy Committee
Meeting Date:	19 August 2021
Report Author:	Tara Fifield, Executive Assistant - Service and Strategy
Report Number:	RSPC21-08-1

PRESENTATION

Morgan Williams and John Hutton will make a presentation to the Committee on water views – a survey of water opinions and practices in the Tasman/Nelson region.

Appendices

Nil

9 REPORTS

9.1 CHAIR'S REPORT

Information Only - No Decision Required

Report To: Strategy and Policy Committee
Meeting Date: 19 August 2021
Report Author: Kit Maling, Chair - Strategy and Policy Committee
Report Number: RSPC21-08-2

1 Summary

1.1 This is the Chair's monthly report of the Strategy and Policy Committee.

2 Draft Resolution

That the Strategy and Policy Committee receives the Chair's Report RSPC21-08-2

3 Welcome

- 3.1 Welcome everyone to today's Strategy & Policy Committee meeting.

4 Change of Chair for Hearing Panel Special Housing Areas Plan Change

- 4.1 At the 27 May 2021 Strategy & Policy Committee, a resolution was passed to appoint a hearings panel to hear PC74 Special Housing Areas:

**Moved Cr Walker/Cr Wensley
SPC21-05-4**

That the Strategy and Policy Committee:

- 1. receives the Strategic Policy, Environmental Policy & Activity Planning Report RSPC21-05-5; and**
- 2. approves the authority to hear and consider submissions and to make recommendations to the Regulatory Committee or Strategy & Policy Committee on Plan Change 74 Special Housing Areas be delegated to an independent commissioner and Cr Maling (Chair) and Cr Butler.**

CARRIED

- 4.2 I wish to use my delegation (under the Delegations Register) as Chair of the Strategy & Policy Committee to appoint Gary Rae, independent commissioner as Chair of the Hearings Panel to hear PC 74 sitting with myself and Cr Butler. The reason for the change of Chair is to respect the request of submitter Mr English and to mitigate the perception of bias in decision-making.

5 Local Government Conference

- 5.1 In July I had the opportunity to attend the Local Government Conference in Blenheim and I did manage to get stuck due to the flooding. The main topic and focus of the conference was the Three Waters Review. The Government is putting a lot of resources in this area as there was six cabinet ministers at the conference and the Minister of Local Government attended for the whole of the conference. This, with the other reforms that we are facing as you are all aware, is going to have a significant impact. In fact, on us and our communities. There was a range of views from other members that I spoke to on the merits of the Three Waters Reform.
- 5.2 The consultation process in the later part of the year will be interesting.

6 Attachments

Nil

9.2 COASTAL EROSION PROTECTION STRUCTURES ON COUNCIL RESERVE LAND POLICY

Decision Required

Report To: Strategy and Policy Committee
Meeting Date: 19 August 2021
Report Author: Richard Hollier, Reserves & Facilities Manager
Report Number: RSPC21-08-3

1 Summary

- 1.1 Coastal erosion and its impact on coastal property owners is an emotive issue. It involves complex and sometimes, competing issues, including the potential erosion threat to people's homes.
- 1.2 Council is asked to adopt a policy this policy seeks to clarify the landowner approval component of the process to apply to build a coastal protection structure on Council Reserve. The purpose of the policy is to try and provide by providing greater clarity to applicants in how to apply for such a structure to be built but also to provide guidance to Council when faced with such requests from ratepayers.
- 1.3 A process is outlined to enable community input and comment on the draft policy through submissions.
- 1.4 The Council is asked to adopt the policy as a consultation draft, appoint a panel to hear submissions and make recommendations on any changes to the policy prior to making a decision regarding adoption of the policy.

2 Draft Resolution

That the Strategy and Policy Committee:

1. **receives the draft Coastal erosion protection structures on Council Reserve Land Policy RSPC21-08-3 report; and**
2. **adopts the draft Coastal Erosion Protection Structures On Council Reserve Land Policy contained in Attachment 1 to this report dated March 2021 as a draft for community consultation; and**
3. **agrees to publicly notify the draft policy for a period of 1 month; and**
4. **delegates the task of hearing and considering submissions on the proposals to classify reserves to a Hearings Panel; and**
5. **appoints a Hearings Panel consisting of Crs ____ (Chair), ____ and, ____ and ____ plus a mātauranga Māori representative appointed by the Mayor, with the Chair having the ability to appoint another Councillor should a member of the panel be unavailable; and**
6. **agrees that the Hearing Panel will report back with recommendations on changes to the draft policy, for a decision around adoption of the policy.**

3 Purpose of the Report

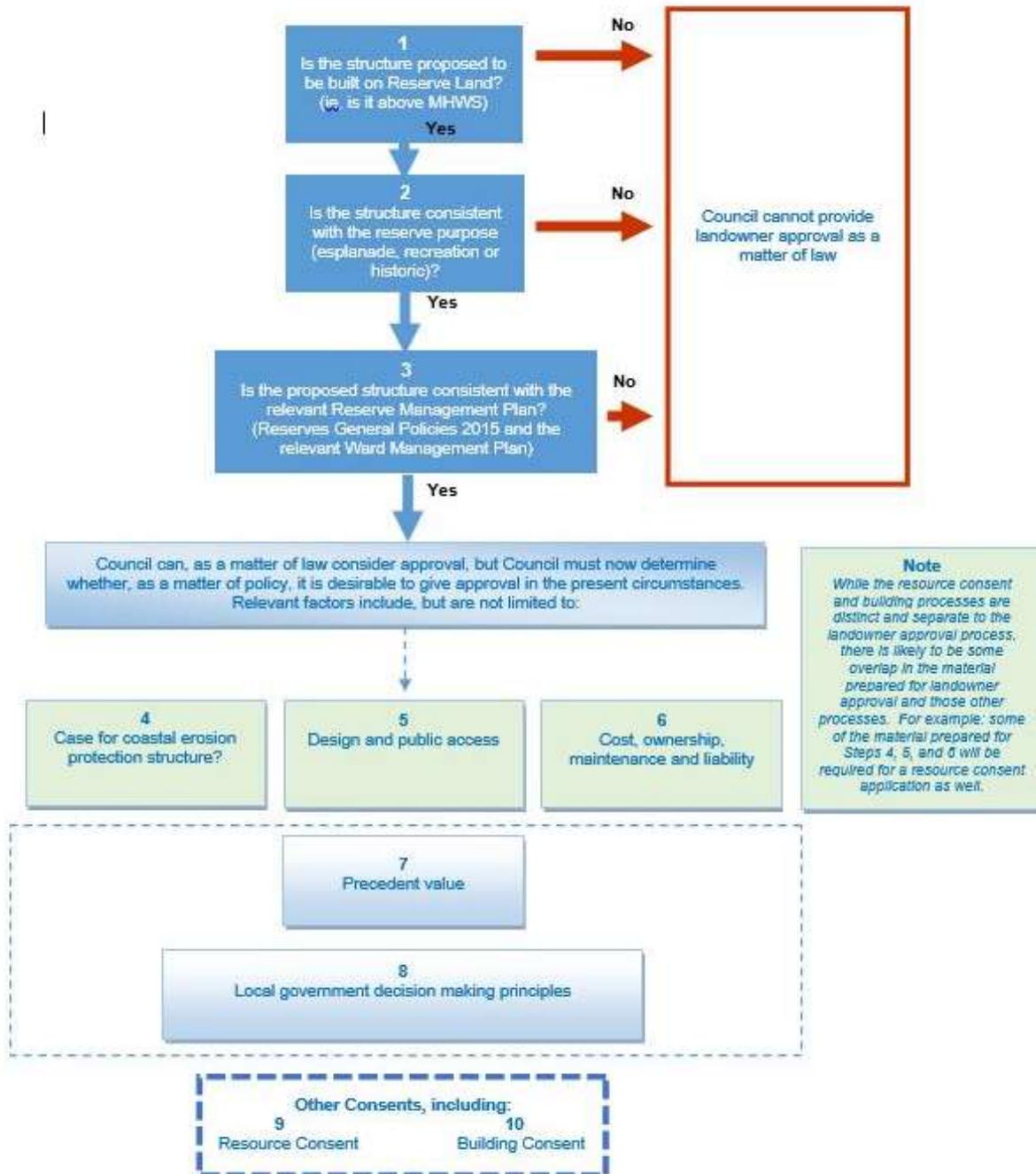
- 3.1 To seek Council approval of a draft policy on the process to be followed for consideration of coastal erosion protection structures on Council reserve land for public consultation.
- 3.2 To seek Council's agreement to the notification of the draft policy for community consultation and submission.
- 3.3 To appoint a Hearing Panel to hear submissions received on the draft policy and to make recommendations back to Council for a decision.

4 Background and Discussion

- 4.1 The Council has for several years been grappling with the issue of whether from a landowners' perspective, coastal erosion protection structures can be established on reserve land. This is an incredibly complicated area for Council with many competing factors to be considered. There have been requests from landowners in a number of areas to build structures on Council reserves in order to protect a reserve from further coastal erosion and by doing so protecting adjacent private property from coastal erosion.
- 4.2 A policy document, "*Coastal erosion protection structures on Council Reserve land*", (Attachment 1) has been developed to provide some clarity for both Council in its role as decision maker and for applicants on how to apply (and the information required as part of an application so that applicants may put their best foot forward).
- 4.3 The landowner approval process needs to consider a number of factors - some of these are matters of law and fact and others are matters of policy. Not all of these matters are aligned and so a hierarchy of factors that need to be considered has been developed so that legalities can be considered before considering matters of policy.
- 4.4 The purpose of the policy is to provide guidance on the process and considerations involved when a private landowner seeks approval to establish a coastal protection structure on reserve land. It sets out:
 - (a) the process that needs to be followed;
 - (b) the matters Council will consider in making a decision including, the requirements of the Reserves Act 1977, and other relevant matters;
 - (c) other approvals likely to be required such as a resource consent and building consent; and
 - (d) enforcement issues that arise if a structure is built on a reserve without a landowner approval.
- 4.5 The policy only applies to particular types of reserve which are those typically found on the coast, potential subject to erosion by the sea and where Council is either the owner of the land or the administering body with a delegated authority to deal with landowner approvals. It does not apply to other types of reserve including road reserve or unformed legal road.
- 4.6 The policy is also designed to be used as a guide for applicants, so it includes:
 - a flowchart outlining the steps in the decision making process (see Figure 1);
 - factors that need to be considered for different reserve types;
 - an application form; and

- information on enforcement where no approvals have been given.

Figure 1: Flowchart – Landowner approval process



Process for Policy Consultation and Adoption

- 4.7 The policy is significant and requires engagement with the community to get community input prior to adoption. It is proposed that submissions on the draft are sought over a one month period during September 2021. This would be followed by a hearing and decision making process in late October – Early November with the aim of making a final decision regarding adoption of the policy in February 2022.
- 4.8 The Environmental Policy team has since July 2019 been working on a ‘Coastal Management Project – Responding to Climate Change’ initiative which aims to enable our Tasman Bay/Te Tai o Aorere and Golden Bay/Mohua communities to work towards long-term adaptive planning for coastal hazards and sea level rise. They have prepared a technical report that will be used as the basis for community engagement during September 2021. This report sets out high-level options for coastal management (under the groupings of; accommodate, protect, avoidance strategies, retreat).
- 4.9 There have been discussions with key members of that team about co-ordinating the messaging during the consultation for both these projects to avoid community confusion. The Coastal Management Project has a broad application whereas this policy is specific to structures on Council Reserve land.

5 Options

- 5.1 The options are outlined in the following table.

	Option	Advantage	Disadvantage
1.	Notify the policy for a one month period to enable community input.	It will provide the community with an opportunity to comment on the draft prior to adoption enabling other groups who are ready to make an application to proceed.	The one month period may be seen by some as too short a period to submit.
2.	Retain the status quo and continue without a policy.	There are no real advantages to this option as community feedback has been that the current process is confusing, it lacks transparency and considerable work has already been undertaken.	The current framework and policies are difficult to navigate and lack a comprehensive overview of the process and how to navigate it is causing confusion and frustration.

- Option 1 is recommended.

6 Strategy and Risks

- 6.1 The policy provides clarity around where Council has no discretion as a result of the applicable legislative regime and areas of policy where it may have some discretion depending on the circumstances of an application. It also makes clear that there are other

regulatory processes such as building or resource consenting that are separate processes and that there are some aspects of an application that will also need to be considered as part of these other processes.

- 6.2 A process of community consultation is proposed to get feedback on the policy and also to identify any gaps or factors that may need additional consideration.

7 Policy / Legal Requirements / Plan

- 7.1 The draft policy gives full regard to the legislative requirements under the Reserves Act 1977, considers the requirements under various Council policies and provide guidance to decision making and makes affected landowners aware of the processes that Council is required to follow.
- 7.2 Under the Local Government Act 2002, in its decision making, the Council needs to give consideration to the views and preference of affected or interested persons. The Council may need to consult the community to understand their views. The assessment undertaken in the Significance and Engagement section below, recommends Council consults the community on the draft policy prior to adopting it.

8 Consideration of Financial or Budgetary Implications

- 8.1 The costs for this project have been provided for in the Reserves and Facilities budget.

9 Significance and Engagement

- 9.1 As outlined in the following table, we consider this activity overall to be of medium to high significance to residents with coastal properties where there is a risk of coastal erosion, and of high significance to some iwi/Māori. This report proposes that Council publicly notifies the draft policy, before making any decisions on this matter.

	Issue	Level of Significance	Explanation of Assessment
1.	Is there a high level of public interest, or is decision likely to be controversial?	Moderate to high	There is likely to be a high level of interest to residents with a coastal property adjacent to a reserve where there is a risk of coastal erosion. Some iwi/Māori are likely to have a high level of interest in the policy.
2.	Are there impacts on the social, economic, environmental or cultural aspects of well-being of the community in the present or future?	Moderate	There are potential future impacts to residents living adjacent to reserve land in coastal areas whereby they may need to consider options on retreat or less palatable solutions for coastal protection.

	Issue	Level of Significance	Explanation of Assessment
3.	Is there a significant impact arising from duration of the effects from the decision?	Low	The policy provides greater clarity on solutions that Council is able to consider and approve and the process for landowner approval.
4.	Does this activity contribute or detract from one of the goals in the Tasman Climate Action Plan 2019 ?	Moderate	This policy will contribute to goals to increased resilience to the impacts of climate change and informing the community of climate change actions and options for response.
5.	Does the decision relate to a strategic asset? (refer Significance and Engagement Policy for list of strategic assets)	Moderate	Reserves and Cemeteries in their entirety are a strategic asset, this policy will potentially have an impact on a number of coastal reserves where they are impacted by erosion and are adjoined by private properties.
6.	Does the decision create a substantial change in the level of service provided by Council?	N/A	
7.	Does the proposal, activity or decision substantially affect debt, rates or Council finances in any one year or more of the LTP?	N/A	
8.	Does the decision involve the sale of a substantial proportion or controlling interest in a CCO or CCTO?	N/A	
9.	Does the proposal or decision involve entry into a private sector partnership or contract to carry out the deliver on any Council group of activities?	N/A	
10.	Does the proposal or decision involve Council exiting from or entering into a group of activities?	N/A	
11.	Does the proposal require inclusion of Māori in the decision making process (consistent with s81 of the LGA)?	Yes	iwi/Māori will be involved in the consultation process.

10 Conclusion

10.1 The current framework for consideration of landowner approval for coastal structures on Council Reserves is driven both legislatively and by national and Council policies. It is

difficult to navigate and confusing for applicants. This policy seeks to clarify all the factors that need to be considered and provide clarity to both Council and landowners to enable better decision making.

11 Next Steps / Timeline

- 11.1 If Council resolves to adopt the draft policy, staff will arrange for a public notice to be included in Newsline and on our website in early September 2021. We will also write to others who we know are affected by this policy.
- 11.2 The consultation and submission period would run from 30 August 2021 to 1 October 2021.
- 11.3 We anticipate that the hearing of submissions and deliberations would take place late October/early November 2021. It is likely that the Hearing Panel would present its report to the Strategy & Policy Committee at its meeting in February 2022.

Attachments

- 1. [↓](#) Coastal erosion protection structures on Council Reserve Land Policy

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TASMAN DISTRICT COUNCIL

Coastal erosion protection structures on Council Reserve Land

March 2021

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The Policy

Purpose

The issue of whether coastal erosion protection structures can be established on Reserve Land¹ involves a number of complex legal and policy issues. This policy is to ensure all relevant matters are considered consistently and transparently by the Council and that those seeking approval for such structures are aware of the issues involved and matters that need addressing.

The purpose of this policy is to provide guidance on the process and considerations involved when a private landowner wishes to establish a coastal erosion protection structure on Reserve Land. It:

- Sets out what private landowners need to do to be able to seek landowner approval from the Council to allow use of Reserve Land for such a structure, and
- Details the matters Council will consider, including the requirements of the Reserves Act 1977 (**Reserves Act**) and other relevant matters, that Council has to apply when making landowner approval decisions.

It also touches on other consents likely to be required (such as resource consent and building consent) but only to identify the need for them, rather than providing detailed guidance on those processes. It also addresses enforcement issues that arise, if such a structure is built on Reserve Land without landowner approval.

Who does it apply to?

The policy applies to landowners who wish to consider coastal erosion protection structures on Reserve Land adjacent to their property. It aims to provide an understanding of what is required to seek approval from the Council for use of the Reserve Land, including:

- the processes that need to be followed and how to navigate them,
- the matters the Council is likely to take into account,
- Council's expectations of what is required from landowners to use Reserve Land for this purpose, and
- what landowners will need to do if they wish to pursue this option.

¹ **Reserve Land** is all land in the Tasman District declared and classified as a local purpose (esplanade) reserve, recreation reserve or historic reserve under the Reserves Act, which is on the coast, above MHWS, potentially subject to erosion by the sea and where Council is the owner of the land (or it maintains it as the administering body and has delegated authority to deal with landowner approvals).



The policy is also for Council, when processing requests for landowner approval for use of Reserve Land - providing a guide to the processes to be followed and the matters the Council is likely to consider, to ensure consistent and robust decision making in relation to hard coastal erosion protection structures on Reserve Land.

The policy only applies to coastal erosion protection structures proposed on local purpose (esplanade) reserve, recreation reserve or historic reserve under the Reserves Act, which is on the coast, above MHWS, potentially subject to erosion by the sea and where Council is the owner of the land (or it maintains it as the administering body and has delegated authority to deal with landowner approvals). It does not apply to any other type of reserve, including road reserve or to unformed legal road.

Outline of landowner approval process for Reserve Land

The flowchart below provides a summary of the landowner approval process under the Reserves Act:

Steps 1 - 3: Set out the key steps which must be considered before landowner approval for a coastal erosion protection structure can be obtained. In the event that a proposal for a coastal protection structure does not meet one of those requirements, the Council cannot provide landowner consent as a matter of law.

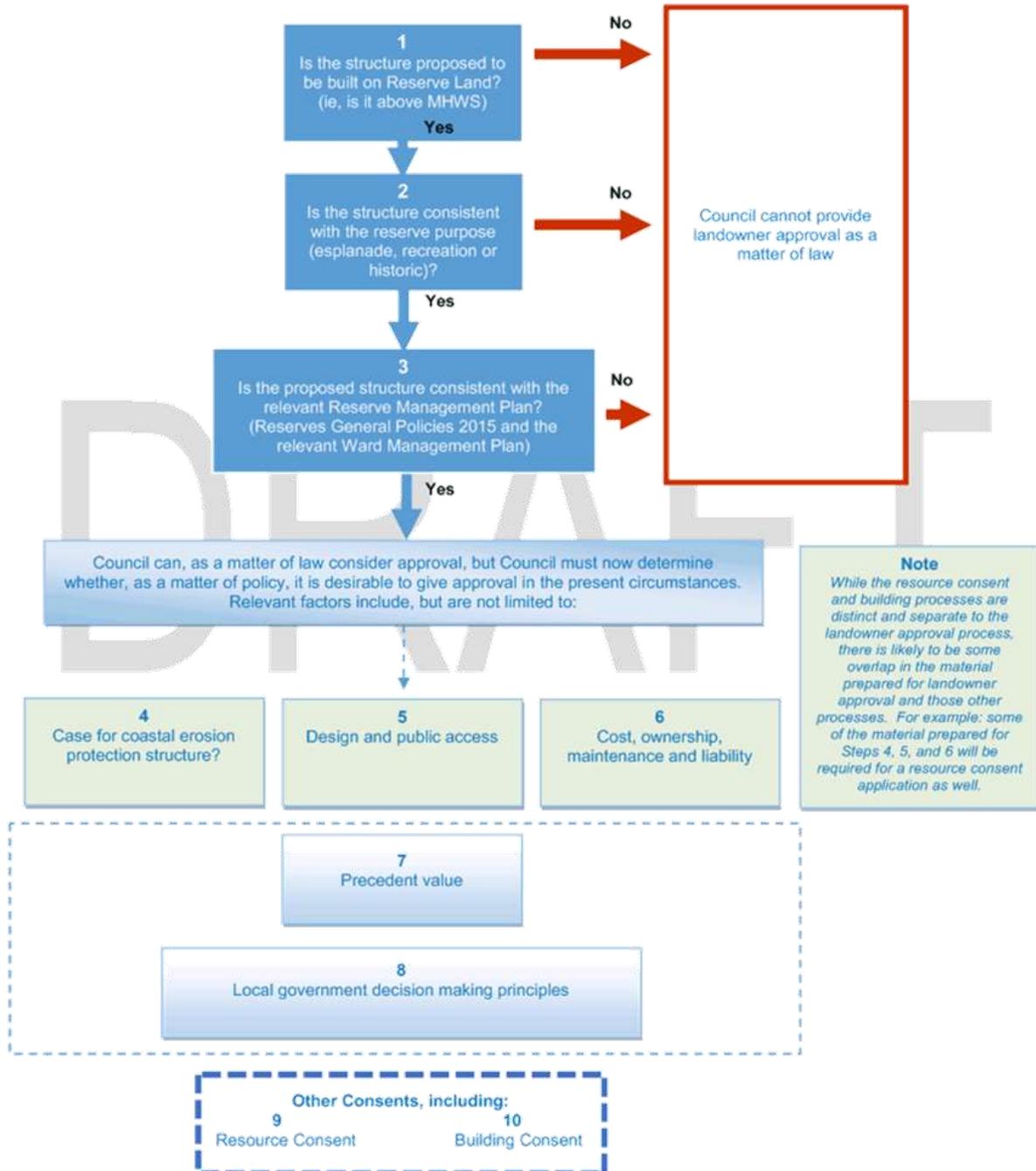
Steps 4 - 7: Set out the other matters the Council will consider when deciding whether to approve the proposal for the coastal erosion protection structure on Reserve Land. While at this stage the Council can grant landowner approval as a matter of law, it still needs to decide if it is desirable to do so and these considerations will be part of that assessment.

Step 8: Considers the Local Government Act 2002 (**LGA02**) decision making principles. These must be considered when making a decision in relation to landowner approval under the Reserves Act.

Steps 9 and 10: Address the requirements for resource consent and/or building consent, which sit outside the Reserves Act process. If a proposal for a coastal erosion protection structure successfully obtains landowner approval under the Reserves Act, there is no guarantee that any other necessary consents will be approved. They will follow their separate regulatory processes as determined by the relevant legislation. They are very important as no coastal erosion protection structure will be able to proceed until *all* necessary approvals are obtained and these decisions are made subject to different criteria and under different processes. The granting of Landowner Consent under the Reserves Act does not provide any indication of success in any subsequent/parallel processes.



Flowchart - landowner approval process - Reserve Land





Application of this Policy

Applies to 'Reserve Land' in the Tasman District

This policy covers all land in the Tasman District that is:

- declared and classified as a local purpose (esplanade) reserve, recreation reserve or historic reserve under the Reserves Act, and
- on the coast, and
- above Mean High Water Springs (MHWS),
- potentially subject to erosion by the sea, and
- owned by the Council (or maintained by the Council as the administering body of the reserve and for which it has delegated authority to deal with landowner approvals).

This Policy does not apply to road reserve or unformed legal road.

The Council reserves itself discretion to apply this policy to land that Council manages and maintains for recreation, historic and esplanade purposes, but which is not formally vested as reserve or not yet declared or classified as reserve.

Applies only to hard protection structures

This policy addresses hard protection structures only, including (but not limited to) sea walls, rock revetments, and any other form of longshore solid artificial structures. This is because these are structures that are not generally encouraged by Council on Reserve Land but are often requested by landowners. Hence, if a landowner wishes to pursue this option some guidance to them in relation to what factors Council will be taking into consideration them is desirable.

The Council's preference is (where possible) to use sustainable natural solutions to manage coastal hazards and vulnerabilities on coastal reserves, to minimise the impact on the natural environment and promote natural resilience.

If a landowner wishes to pursue natural solutions, that should be done in consultation with Council to determine if it can be done and whether it can form part of the Council's Coast Care management programme.

Who can apply?

Any landowner on the coast who has Reserve Land adjacent to their property may apply to Council for landowner approval to construct a coastal erosion protection structure on Reserve Land.



Landowner approval under the Reserves Act 1977

The Reserves Act - legal requirements

Where land is administered by Council as reserve (in this case local purpose (esplanade) reserve, recreation reserve or historic reserve), the Reserves Act requirements have to be followed. In particular:

- a reserve is required to 'be held and administered for the purpose or purposes for which it is classified and for no other purpose' (section 16(8) of the Reserves Act), and
- the Council, as administering body, is charged with 'administering, managing, and controlling the reserve under its control and management in accordance with the appropriate provisions of this Act...' to ensure, as appropriate, 'the use, enjoyment, development, maintenance, protection, and preservation...of the reserve for the purpose for which it is classified' (section 40 of the Reserves Act), and
- the Council, as administering body, 'shall in the exercise of its functions comply with the Management Plan for the reserve...' (section 41(11) of the Reserves Act).

Accordingly, as a matter of law, the Council needs to be satisfied that what is proposed is actually located on Reserve Land, it is consistent with the purpose of the reserve and it is consistent with any relevant Reserve Management Plan under the Reserves Act.

In addition to those matters under the Reserves Act, there are a variety of other matters the Council will consider when determining if it is desirable for landowner approval to be given in the circumstances of the specific case.

Each of these matters are addressed in more detail below and each of the steps align with the steps identified in the flowchart on page 3 above.

Step 1 Location of the coastal erosion protection structure

The location of the coastal erosion protection structure is important to whether a landowner is able to obtain landowner approval from Council under the Reserves Act. It needs to be located above MHWS for Council to give such approval, as its location impacts on Council's ownership of the land and there will also be implications under the RMA (in terms of the type of resource consent that might be needed (eg, coastal permit versus land use consent)).



The exact location of any proposed coastal erosion protection structure and the surveyed location of MHS will need to be determined by the landowner before requesting Council's landowner approval or resource consent.

Step 2 The reserve's purpose

Reserves are classified under the Reserves Act according to their principal or primary purpose (section 16(1) of the Reserves Act). The Council is required to administer reserves according to their purpose (section 16(8) of the Reserves Act) and to ensure that any use of the reserve is compatible with its purpose (section 40 of the Reserves Act). The classification of a reserve is therefore directly relevant to the landowner approval process because Council needs to be satisfied that what is proposed is consistent with the purpose before any activity can proceed.

This means that any coastal erosion protection structure must be consistent with the primary esplanade, recreation or historic purpose. Other ancillary purposes (such as the benefits the adjoining owners will enjoy from the protection structures remaining / being constructed on the reserve) are potentially allowable, provided the statutory purpose (as outlined below) is preserved and is not compromised by the other purpose.

Local purpose (esplanade) reserve

Section 61 of the Reserves Act sets out the specific powers the Council has in relation to local purpose (esplanade) reserves, which includes a general power to allow activities that are desirable or necessary for the proper and beneficial management, administration and control of the reserve and for the use of the reserve for its specified purpose.

Section 23(1) of the Reserves Act provides that local purpose reserves are to be administered in accordance with the relevant Reserves Act provisions:

...for the purpose of providing and retaining areas for such local purpose or purposes as are specified in any classification of the reserve.

Section 229 of the RMA sets out the purpose of esplanade reserves:

An esplanade reserve or an esplanade strip has 1 or more of the following purposes:

- (a) *to contribute to protection of conservation values by, in particular—*
 - (i) *maintaining or enhancing the natural functioning of the adjacent sea, river, or lake, or*
 - (ii) *maintaining or enhancing water quality, or*
 - (iii) *maintaining or enhancing water aquatic habitats, or*
 - (iv) *protecting the natural values associated with the esplanade reserve or esplanade strip, or*
 - (v) *mitigating natural hazards, or*
- (b) *to enable public access to or along any sea, river, or lake, or*



- (c) *to enable public recreation use of the esplanade reserve or esplanade strip and adjacent sea, river, or lake, where the use is compatible with conservation values.*

This sets out three potentially relevant purposes when Council is considering coastal erosion protection structures on local purpose (esplanade) reserve. Council will need to be satisfied that:

- the Reserve Land has conservation values AND the proposed structure will contribute to the protection of those values by one of the means set out, most likely by mitigating natural hazards to protect those values, or
- the proposed structure enables public access to or along the sea, or
- the proposed structure enables public recreational use of the reserve and adjacent sea, where compatible with the conservation values of the reserve.

If the only purpose of the coastal erosion protection structure is to protect adjacent property from coastal erosion and there is no other purpose relating to protecting conservation values (or there are no conservation values) then the structure is unlikely to be consistent with the purpose of contributing to the protection of conservation values by mitigating natural hazards. The only possibility then is whether the coastal erosion protection structure enables public access to the sea or enables public recreational use of the reserve and adjacent coastal area. This is likely to mean that the design of what is proposed is important (eg, if it is to proceed it is likely to require the provision of, or protection of, public access to be consistent with the reserve purpose).

Recreation reserve

Sections 53 and 54 of the Reserves Act set out the specific powers the Council has in relation to recreation reserves, which includes a general power to allow activities that are desirable or necessary for the proper and beneficial management, administration and control of the reserve.

Section 17(1) of the Reserves Act provides that recreation reserve land shall be used:

For the purpose of providing areas for the recreation and sporting activities and the physical welfare and enjoyment of the public, and for the protection of the natural environment and beauty of the countryside, with emphasis on the retention of open spaces and outdoor recreational activities, including recreational tracks in the countryside.

Having regard to this general purpose, every recreation reserve must be administered on the basis set out in section 17(2) of the Reserves Act. This includes:

- Maintaining public access, subject to such restrictions as the Council considers necessary for the protection and general well-being of the reserve and protection of the public using it.
- Managing and protecting indigenous flora or fauna to the extent compatible with the primary purpose of the reserve.
- Conserving those qualities of the reserve which contribute to the pleasantness, harmony, and cohesion of the natural environment and to the better use and enjoyment of the reserve.



- Maintaining its value as a soil, water and conservation area to the extent compatible with the primary purpose of the reserve.

Again, this is likely to mean that the design of what is proposed is important (eg, it may require the provision of, or protection of, public access and/or protection of certain values of the site to be consistent with the reserve purpose).

Historic reserve

Sections 58 and 58A of the Reserves Act sets out the specific powers the Council has in relation to historic reserves, which includes a general power to allow activities that are desirable or necessary for the proper and beneficial management, administration and control of the reserve, as long as it is consistent with the principles in section 18.

Section 18 of the Reserves Act provides that historic reserves are:

for the purpose of protecting and preserving in perpetuity such places, objects, and natural features, and such things thereon or therein contained as are of historic, archaeological, cultural, educational, and other special interest.

Having regard to this general purpose, every historic reserve must be administered and maintained on the basis set out in section 18(2) of the Reserves Act, being:

- The structures, objects, and sites illustrate with integrity the history of New Zealand.
- The public shall have freedom of entry and access to the reserve, subject to the specific powers in sections 58 and 58A, to any bylaws under this Act applying to the reserve, and to such conditions and restrictions as the administering body considers to be necessary for the protection and general well-being of the reserve and for the protection and control of the public using it.
- Where scenic, archaeological, geological, biological, or other scientific features, or indigenous flora or fauna, or wildlife are present on the reserve, those features or that flora or fauna or wildlife shall be managed and protected to the extent compatible with the principal or primary purpose of the reserve².
- To the extent compatible with the principal or primary purpose of the reserve, its value as a soil, water, and forest conservation area shall be maintained.
- Except where the Minister otherwise determines, the indigenous flora and fauna and natural environment shall as far as possible be preserved.

Again, this is likely to mean that the design of what is proposed is important (eg, it may require the provision of, or protection of, public access to be consistent with the reserve purpose and/or protection of certain values of the site).

² This does not authorise anything with respect to fauna or wildlife that would contravene any provision of the Wildlife Act 1953 or any regulations or Proclamation or notification under that Act, and it does not authorise the doing of anything with respect to archaeological features in any reserve that would contravene any provision of the Heritage New Zealand Pouhere Taonga Act 2014.



Other requirements under the Reserves Act

In addition, the Reserves Act also contains limitation in relation to cutting or destroying any trees or bush on a recreation reserve, local purpose (esplanade) reserve or historic reserve. To do so may require a permit and/or certain conditions to be met (section 42 Reserves Act). This will need to be addressed as part of the landowner approval process.

Step 3 Reserve Management Plan/s under the Reserves Act

The relevant Reserve Management Plans

Reserve Management Plans are prepared under the Reserves Act and provide the community with certainty about the function and management of reserve land. Their aim is to:

- provide for use, enjoyment, maintenance, protection and preservation (as the case may be) of the reserve, and
- provide for development of the reserve, as appropriate, for the purpose for which it is classified, and
- ensure compliance with the principles applying to the particular reserve land (in this case, the principles in sections 17, 18 and 23 of the Reserves Act).

The Council is required to comply with any relevant Reserve Management Plan for the reserve (section 41(11) of the Reserves Act) and this means that a proposal for a coastal erosion protection structure must be consistent with any relevant Reserve Management Plan.

The relevant Reserve Management Plans for the Tasman District that contain coastal areas and development are:

- the Reserves General Policies - September 2015, which apply to all reserves owned and administered by the Council, and
- other Reserve Management Plans, which set out the objectives and policies for specific areas. Relevant Reserve Management Plans for the purposes of this Policy are:
 - Moutere-Waimea Ward Reserves Management Plan August 2000 (updated 2017).
 - Richmond Ward Reserves Management Plan - March 1999.
 - Motueka Ward Reserve Management Plan - May 2019.
 - Golden Bay Ward Reserves Management Plan 2003.
 - Tata Beach Reserves Management Plan 2007.



Where an issue is addressed by both the Reserves General Policies and a site-specific / Ward Reserve Management Plan (whether it is prepared before or after the Reserves General Policies), then the policies in the Reserve Management Plan take precedence (see page 5 of the Reserves General Policies).

The most relevant sections in the Reserves General Policies and the five Reserve Management Plans and the key themes from them are set out in Appendix 1 to this Policy.

It is important to note these are not all of the relevant expectations, objectives and policies in those Reserve Management Plans, but rather, some of the key provisions to provide a 'flavour' of what is required by those Plans. A full assessment against each relevant provision will be required as part of any application for landowner approval.

Iwi involvement

The Reserves General Policies specify that:

- The Council will work co-operatively with identified mana whenua, tangata whenua iwi and Māori organisations.
- The Council will work in a spirit of partnership to achieve the objectives of reserve provision and use and will recognise the mana of mana whenua and tangata whenua iwi and the desire to work together to maintain and support the reserve network.
- Mana whenua and tangata whenua iwi need to be given the opportunity to be actively involved in the management of reserve values where cultural or heritage values are present or nearby. Some of the ways active involvement can be supported and achieved are:
 - Consultation.
 - Establishing partnerships.
 - Enabling customary use.
 - Incorporating information and interpretation in relation to places or resources of spiritual, historical and cultural significance to Māori.

As part of any application for landowner approval from the Council, consideration will need to be given these provisions, and any additional considerations from the Reserve Management Plans. For example, in the Motueka Ward Management Plan, there is a requirement for a cultural impact assessment as part of the process of assessing and evaluating proposed new land uses or activities on reserves.

In addition, consultation with iwi will be a consideration under [Step 8](#), when considering the LGA02 decision making principles.



Conclusion under the Reserves Act

If after assessing the above matters the conclusion is that:

- the structure is to actually be located on Reserve Land, and
- it is consistent with the purpose of the reserve, and
- it is consistent with all relevant Reserve Management Plans under the Reserves Act,

then, it is legally possible to obtain landowner approval from the Council. If legally possible to obtain such an approval, Council will then go on to assess a variety of other matters to determine if it considers it desirable, and appropriate, to provide its landowner approval in the particular circumstances of the case.

If all of the above conclusions cannot be made, a request can proceed no further as a matter of law.

A list of other matters the Council is likely to consider is set out below, if the application is able to proceed. This is not an exhaustive list and will depend on the facts of the particular proposal. Some context is provided for each matter below, as to why it is relevant and what Council's expectations are.

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Other relevant considerations

Step 4

Is there a case for a coastal erosion protection structure and are there viable alternatives?

The Council's preference, where appropriate, is for soft engineering solutions first. The Council is not planning to provide any coastal erosion protection structures on Reserve Land itself. Rather, it will manage its coastal reserves, with the co-operation of the coastal communities living alongside them, so as to increase their natural resilience.

In the longer term, sea-level rise may ultimately inundate both Reserve Land and adjacent property. Until then, an ongoing adaptive management approach utilising soft engineering methodologies can provide effective protection in relation to coastal erosion to both land types, thereby increasing resilience to climate change. In contrast, hard engineering solutions can create 'end effects'. Among other things, they can create a loss of the high tide beach and they can exacerbate erosion of nearby properties and significantly decrease their climate resilience.

If landowners wish to pursue hard coastal erosion protection structures on Reserve Land, then they will need to show why such structures are necessary and what other viable options are available. If there are no other viable options, this needs to be identified and an explanation provided. This means a landowner needs to undertake and provide an assessment of alternatives with any application for landowner approval from the Council. This needs to be an expert assessment, from a suitably qualified expert, that addresses:

- Why soft engineering options are not appropriate in this situation.
- The effectiveness of what is proposed and likely longevity.
- Potential adverse effects that may arise from what is proposed.
- Alternative options, their predicted effectiveness/longevity and associated cost, compared to what is proposed.

This expert assessment can be combined with the assessment required below under [Step 5](#).

Step 5

Design and public access

Design

The design of a coastal erosion protection structure will be a critical consideration for the Council. Some of the key reasons for that are:



- this is public Reserve Land and the Reserves Act and relevant Reserve Management Plans all require consideration of maintaining public access (if it removes existing public access without providing a suitable alternative it is unlikely to be acceptable - see discussion below on 'Public Access'), and
- the Reserves Act requires consideration before removing of any trees or bush, so any proposal involving that will need careful assessment, and
- Council needs to consider conserving the qualities of the reserve which contribute to the pleasantness and enjoyment of the reserve for everyone (which means how it is designed will be relevant) and the wider environment, and
- the structure should not cause significant effects on the values of the reserve or adjacent landowners or landowners further along the coast, and the design of the structure will play an important part in this consideration.

The Council will review the design proposal as part of the landowner approval process and may seek input into the design of the structure. The Council requires that landowners engage a qualified coastal management expert to design the structure and provide an assessment of the matters below, which Council will take into account as part of the landowner approval process:

- Is it an appropriately designed structure, ie has input been provided by a suitably qualified expert (ie coastal management expert)?
- Is the design consistent with the purpose of the reserve, particularly in relation to public access, but also in terms of its effectiveness?
- What, if any, effects will the structure have on the environment and in particular, any likelihood of 'end effects' on any other properties?
- Are there any other coastal works in the area or intended to be erected in the area, and if so, can the design be tied into any related work?
- Are there any viable alternatives to the design (particularly where there may be soft alternatives)?

The landowner is responsible for the design and construction of any structure that the Council may agree to being located on Reserve Land, subject to compliance with any conditions the Council may impose. If a resource consent is required for the coastal erosion protection structure, then it is likely that most of these matters will also need to be addressed in that application as well.

Public access

As noted above in [Step 2](#), public access to, and use of, reserves are an important consideration for the Council under the Reserves Act. Landowners seeking to have a coastal erosion protection structure erected on adjacent Reserve Land will need to consider what impact the structure will have on public access and use of the reserve.

Requirements will be different depending on the type of the reserve in question, as set out below.



Local purpose (esplanade) reserve

Local purpose (esplanade) reserves are required by the Reserves Act to be administered and maintained so as to prevent any impediment to the right of the public to freely access the reserve on foot, unless the Council determines that access should be prohibited or restricted to preserve the stability of the land or the biological values of the reserve.

For landowners seeking to erect a coastal erosion protection structure in a local purpose (esplanade) reserve, this means that:

- in the first instance, if it is physically possible, the design of any structure should not prevent public access to the reserve, but
- in the event that such a design is not possible, the landowner will need to establish that the prohibited or restricted access to the reserve is justified to preserve the stability or biological values of the reserve.

Recreation reserve

Under the Reserves Act, the public has freedom of entry and access to a recreation reserve, subject to:

- specific powers conferred on the Council by sections 53 and 54 of the Reserves Act, and
- any conditions and restrictions that the Council considers necessary for the protection and general well-being of the reserve and for the protection and control of the public using it.

As with local purpose (esplanade) reserves, where possible landowners should in the first instance attempt to create designs that do not interfere with (or remove existing) access to the reserve by the public. Where this is not possible, the landowner will need to consider whether any of the exceptions referred to above apply and present that position to the Council.

Historic reserve

Historic reserves are required by the Reserves Act to be administered and maintained so that the public has freedom of entry and access to the reserve, subject to the specific powers conferred by sections 58 and 58A, to any bylaws under this Act applying to the reserve, and to such conditions and restrictions as the Council considers to be necessary for the protection and general well-being of the reserve and for the protection and control of the public using it.

As with local purpose (esplanade) reserves and recreation reserves, where possible landowners should in the first instance attempt to create designs that do not interfere with (or remove existing) access to the reserve by the public. Where this is not possible, the landowner will need to consider whether any of the exceptions referred to above apply and present that position to the Council.



Step 6

Cost, ownership, maintenance and liability

Cost - who pays?

The Council's expectation is that landowners will take responsibility for all costs associated with coastal erosion protection structures proposed to be located on Reserve Land. This includes all costs associated with applying for the necessary approvals, construction, ongoing maintenance, repair and any associated consent or Reserve Act processes. It will also include any costs associated with removal, if that is required in the future.

While this is the default position, the Council reserves the right to enter into separate costs arrangements, where appropriate. When considering the costs associated with the coastal erosion protection structures, some of the matters the Council will take into account are:

- Who is receiving the benefits from the proposal, ie, the public at large (in terms of access to the beach and use of reserve area (depending on size), or private owners receiving protection of their property?
- Who is paying and how it is funded?
- Any special circumstances of the specific proposal.

Who owns and maintains?

The Council expects that ownership and responsibility for ongoing maintenance, repair and potential upgrades for any coastal erosion protection structures on Reserve Land will sit with the landowner/s who apply for the right to construct the structure on Reserve Land.

Given the increasing risks of climate change, including predictions for sea level rise in the future, the costs of maintaining any form of coastal erosion protection structure on the coastline are only going to increase over time. The Council is not generally willing to fund this from rates (subject to the discussion above).

While maintenance works may be provided for in relation to the proposed coastal erosion protection structures, there is no assumption that the Council, as owner (and/or the administering body) of the Reserve Land, will continue to allow structures on its land. For example, Council will retain the ability to remove it if the coastal erosion protection structure turns out to be ineffective, causes adverse effects, is not appropriately maintained, becomes dangerous or is damaged beyond repair, etc. Where substantial works are required, an entirely new process is likely to be required.

As the Council remains the owner (and/or the administering body) of the Reserve Land it will need to continue to be involved in decisions relating to the coastal erosion protection structure going forward. The exact nature of the relationship and the extent of reporting between the Council and the landowner will need to be defined in an agreement between the parties, that will be required as part of the landowner approval process - this agreement is discussed further below under 'Liability and Risk'.



All landowners need to be aware that there will come a point where sea-level rises and coastal erosion is such that managed retreat will ultimately need to be considered.

Liability and risk

The Council will not take on any liability for structures built, owned and maintained by other landowners on Reserve Land. That will be the sole responsibility of the landowners who apply for and build the structure and their successors.

The Council will require those landowners to accept joint and several liability for any damage caused by any such structure (or as a result of it) and will require an indemnification of Council against any such claims. This includes 'making good' any effects this structure may have on adjacent properties, including 'end effects' and 'making good' any damage that may arise if removal is required.

This issue, along with who owns and maintains the structure, as well as any other issues that arise through this landowner approval process will be recorded in an agreement between the Council and landowners, which will need to be included in an instrument that is registered on the landowner titles, to ensure any future owners are aware of the obligations and requirements and have ongoing responsibility for them. The form and/or content of the agreement will be site specific.

Land information memoranda

Land information memorandum (LIMs) are provided for under the Local Government Official Information and Meetings Act 1987 and are a source of information on matters that affect land. They are intended to be a simple mechanism by which potential purchases are informed of potential property risks.

Under the Act, the Council has obligations to include certain information on LIMs, including any information known to the Council on the presence of potential natural hazards affecting the land subject to a request for a LIM (including potential erosion and inundation). This means that if Council is provided with information that shows there is a reasonable possibility that a natural hazard will occur on the land, this information will be reflected on the LIM.

Step 7

Precedent/wider implications of the decision

The Council will need to carefully consider the precedent of allowing coastal erosion protection structures in these locations, what that will mean for other similar locations and ultimately, what it means for the Council.

Tasman District has an extensive coastline. There are several coastal communities facing coastal erosion issues and Council wishes to take a consistent and measured approach to each situation, where adjacent landowners are seeking a coastal erosion protection structure on Reserve Land.

Council will consider whether the potential of large areas of Tasman's coastline being armoured with rock/structures is the outcome it considers is appropriate for the long term environmental and



community outcomes it is seeking, and whether, given the increasing sea levels resulting from climate change, structures are a sustainable solution to coastal erosion.

Council will require a clear explanation as part of the landowners expert assessment (see [Step 4](#) and [Step 5](#) above for the other matters that will need to be included) of why what is proposed is a sustainable solution and whether there is anything special about the circumstances of this case, compared to other coastal areas in Tasman.

Formal mechanism under the Reserves Act

As noted above (see [Step 7](#)), part of the process for obtaining approval for erecting coastal erosion protection structures on Reserve Land will be that the Council will enter into agreements (of varying kinds) with landowners that detail various matters that need to be recorded, including a mechanism to allow the occupation of the Reserve Land (most likely a licence).

The Reserves Act and the relevant Reserve Management Plans determine what sort of mechanism can be used, any process requirements and what conditions are to apply.

The power of the Council to grant an occupation agreement over Reserve Land varies depending on the status of the reserve and any rights transferred from the Crown. Public notification and consultation may be required for a proposed occupation agreement. Depending on the proposal, an approval from the Minister of Conservation may also be required.

Any occupation agreement must be consistent with the Reserves Act requirements (sections 17, 18, 23, 48 and 53 in particular), the Reserves General Policies, as well as any specific Reserve Management Plan. These Plans include restrictions around what occupation agreements are acceptable and the scope of such agreements.

The Council will determine what form of agreement is appropriate on a case by case basis.

Information to include with request for landowner approval

Attached as Appendix Two is an application form, which provides a guide to the information likely to be required as part of an application under this Policy.

Step 8 Local Government Act 2002 decision making principles

Further to the considerations listed above ([Steps 1-7](#)), the Council is also required to abide by the decision-making principles in the LGA02. The purpose of including this very brief summary in this Policy is to ensure that landowners understand the decision-making process that the Council will engage in when making a decision on landowner approval. That is, it will include consideration of all the relevant Reserves Act matters, the other considerations above and applying the LGA02 decision making principles.



The Council has legal obligations in relation to decision making and accountability to its community under the LGA02 – particularly under Part 6 of the LGA02. These obligations need to be considered for every request for landowner approval for a coastal erosion protection structure on Reserve Land.

The Council must, in the course of its decision-making process in relation to a matter, give consideration to:

- the views and preferences of persons likely to be affected by, or to have an interest in, the matter,
- all reasonably practicable options to achieve the objective of a decision (and the advantages and disadvantages of each option),
- consistency with Council adopted policy and statutory plans.

The LGA02 does not specifically require the Council to undertake any consultation process before making a decision. A decision on whether to consult will depend on the extent to which the Council currently understands the view and preferences of people with an interest in the matter, the significance of the matter and following consideration of the Council's Significance and Engagement Policy.

In addition, it is up to the Council to decide how to comply with the decision-making requirements and the extent to which the decision making and consultation principles in the LGA02 are observed in any particular situation. In making that judgement, Council will consider:

- the principles in section 14 of the LGA02, and
- the extent of the Council's resources, and
- the extent to which the nature of a decision, or the circumstances in which a decision is taken, allow the Council scope and opportunity to consider a range of options or the views and preferences of other persons.

Finally, section 80 of the LGA02 requires that where a decision of the Council is significantly inconsistent with, or is anticipated to have consequences that will be significantly inconsistent with, any Council policy or plan, the Council must, when making the decision, clearly identify the inconsistency, the reasons for the inconsistency and any intention of the local authority to amend the policy or plan to accommodate the decision.

It is Council's expectation that after full consultation on this Policy, full public consultation may not be required for every request it considers under the Policy, but it will need to determine that on a case by case basis, in light of any requirements in the relevant Reserve Management Plans and the LGA02 decision making principles.



Other consents

Nothing in this policy overrides any separate regulatory requirements for coastal erosion protection structures under any other statute. The Building Act 2004 (**Building Act**), LGA02, the RMA (and consequently, the Tasman Resource Management Plan (**TRMP**)) and relevant bylaws may also influence the construction of structures on Reserve Land.

Any necessary consents required under those statutes will need to also be obtained, separately to any landowner approval provided by the Council under the Reserves Act. This policy applies to the landowner approval process under the Reserves Act only. It does not apply to decisions relating to the granting of a resource or building consent or any other required regulatory approval. These consents are addressed briefly below.

Step 9

Resource consent

A resource consent is likely to be required for a coastal erosion protection structure. This allows an assessment of the environmental effects of the proposed activity and consideration of how it fits with district, regional and national planning documents, including the New Zealand Coastal Policy Statement.

The type of resource consent needed will depend on what land the structure is being built on, its zoning (if any) and the type of activities being undertaken (eg, land disturbance, discharges, etc).

The requirements for consent applications are set out in the RMA and the district and regional plans. Landowners should consider whether an application for resource consent should be made once approval for the coastal erosion protection structure has been obtained under the Reserves Act, afterwards or at the same time. There is no guarantee that if a proposal is approved under the Reserves Act that it would obtain resource consent under the RMA and vice versa. Each process is a separate assessment, applying different legislation and different matters for consideration, albeit a number of the matters assessed by the Council may well overlap between the processes.

Marine and Coastal Area (Takutai Moana) Act 2011

The Marine and Coastal Area (Takutai Moana) Act 2011 imposes a requirement on resource consent applicants to notify and seek the views of any person who has applied for recognition of customary marine title under this Act in the area where the proposed structure is to be located. This will only be relevant where there are works/discharges relating to the structure that occur below MHWS. To obtain further information about the location of customary marine title applications, see [Te kahui takutai moana marine and coastal area](#).



Step 10 Building consent

Whether or not building consent will be needed will depend on the nature of the coastal erosion protection structure and if it is 'building work' under the Building Act 2004 and whether it fits within any of the exemptions in Schedule 1 of that Act. For example:

- Building work in connection with a retaining wall that retains not more than 1.5 metres depth of ground; and does not support any surcharge or any load additional to the load of that ground (for example, the load of vehicles).
- Building work in connection with a fence or hoarding which does not exceed 2.5m in height above the supporting ground.

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Enforcement

Unlawful structures on Reserve Land

It is important that the public understand the need for compliance with respect to the construction of coastal erosion protection structures on Reserve Land. Council will not accept structures being erected on its land, without the necessary approvals in place. Such structures are unlawful.

Erecting a structure on a reserve without Council approval will lead to action being taken by the Council. In the Reserves General Policies, it states (Method 3.4.3.3):

Where encroachments onto reserve land are identified, neighbouring landowners shall be notified of the existence of an encroachment and a time limit placed on the removal of the structure or installation. Legal action may proceed if the encroachment is not removed within a fair and reasonable timeframe.

The Council has previously discovered structures on Reserve Land that were built without obtaining any Council approval. Some of these structures have been there for a number of years and may have been built by a previous owner of the adjacent property, while others are recent or in the process of being built. This is not acceptable.

Under section 95(5) of the Reserves Act, all apparatus erected on Reserve Land without consent of the administering body is deemed to be forfeited to the administering body and can be disposed of as the administering body sees fit. This means that the Council is entitled to remove any structure on Reserve Land that does not have its landowner approval.

In addition to seeking voluntary removal or relying on its Reserves Act powers to remove any unlawful structure, Council has a variety of enforcement options under different pieces of legislation, depending on the circumstances of the case. This will include options under the RMA and Building Act 2004, where offences also occur under those Acts.

Selecting the appropriate enforcement response will depend on a number of factors and is at the discretion of the Council. Council will consider its Enforcement Policy when making such decisions, which can be found at [Bylaws and Regulations](#).

Enforcement options can include education, voluntary compliance, formal notice, Court orders, infringement notices and prosecution. Prosecutions are at the most serious end of the scale of enforcement options. As an example, under the Reserves Act it is an offence to erect any building or apparatus in a reserve without approval from the administering body (section 94(1)(k) of the Reserves Act). The potential penalties on conviction are:

- For an individual, a term of imprisonment not exceeding 2 years or a fine not exceeding \$100,000, or both.
- For a body corporate, a fine not exceeding \$200,000.

Where the offence is a continuing offence, a further fine not exceeding \$10,000 per day for every day on which the offence continues.



Policy development process

[Once Policy is complete, include a summary of the process used to create and adopt this Policy - ie, notification, consultation undertaken, timing, etc and a note around intended review period - ie, to be reviewed every 5 years by Council.] NOTE: TO COMPLETE ONCE POLICY FINAL.

Notice of disclaimer

This policy is not legally binding. It cannot cover every situation and individual circumstances of the case will need to be applied. This policy is not a substitute for independent professional advice. It is recommended that landowners considering this option obtain their own professional advice.

There may be exceptional or unusual circumstances that may arise, and the Council reserves itself full discretion to vary any aspect of this policy to address particular circumstances.

Nothing in this policy should be taken as overriding district or regional plans produced under the RMA or any other statutory plan.

This policy has been written, edited and published and is made available to all persons and entities strictly on the basis that its author, the Tasman District Council, fully excludes any liability in any way to any person or entity for damages in respect of or arising out of the reliance in part or full, by such person or entity or by any other person or entity, upon any of the contents of the policy for any purpose.



Appendices

Appendix 1 - Reserve Management Plan Key Sections and Themes

Appendix 2 - Application form

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Appendix 1 - Reserve Management Plan key sections and themes

Reserves General Policies 2015

The two most relevant sections of the Reserves General Policies are 3.3 (Treaty of Waitangi), 3.4 (encroachments), 4.1 (recreational use and access), 5.1 (protection and enhancement of indigenous biodiversity), 5.2 (protection and enhancement of heritage and cultural values), 5.3 (coastal hazards) and 6.1 (buildings and structures). Some of the key themes relevant to coastal erosion protection structures are:

- Council will work cooperatively with identified mana whenua and tangata whenua and they will be actively involved in the management of reserve values where cultural or heritage values are present or nearby.
- That reserves will be kept free of private structures unless a clear public benefit is evident and/or Council has entered into a written agreement with regard to the activity.
- Reserves are to be freely available for use by the public on a casual basis, unless constrained by Council approved events or activities and where practicable and affordable, provide access for disabled persons to the reserve.
- Multiple uses of reserves are encouraged where practical.
- That fences, buildings or other structures shall not unnecessarily restrict foot access onto or across the reserve.
- The indigenous biodiversity values of reserves are maintained and enhanced and shall be managed to avoid, minimise or mitigate damage to indigenous ecological values as a result of public access and use.
- Natural character values within mapped areas of significant conservation values shall be protected and maintained and where necessary, restored.
- As far as practicable, sites or areas on reserves which are identified as having cultural heritage value shall be protected, preserved or maintained.
- Where there are identified wāhi tapu sites on the reserve, mana whenua and tangata whenua will be consulted prior to proposed land disturbance activities.
- In certain circumstances, archaeological assessments will be required.
- That the use of sustainable natural solutions for the management of coastal hazards on Reserve Land are supported.
- That Council is not planning to provide any increased levels of protection to properties adjacent to Reserve Land.



- Reserve Land will be managed to provide, *where appropriate*, for the protection, restoration or enhancement of natural defences that protect coastal land uses from coastal hazards.
- Structures on Reserve Land are for an approved use and do not cause significant effects on the values of the reserve or adjoining landowners.
- A list of matters the Council shall have regard to when evaluating any proposal for a new structure on Reserve Land, including:
 - The purpose of the reserve.
 - The need for the structure to be located on reserve and the use it will be put to.
 - The design of the structure and its compatibility with the open space and amenity values of the reserve.
 - The effects of the structure.
 - The financial position of the applicant to properly construct and maintain the structure and ongoing associated costs.
 - The possibility of establishing jointly administered or multiple purpose structures.
 - The conservation of open space, significant vegetation, habitats and significant landscape features and whether the land could be put to better use for casual recreation.
 - The need to protect existing outdoor recreation facilities and activities.
- Required conditions for structures on reserve are identified at 6.1.2.8.

It is also noted that paragraph 5.3 of the Reserves General Policies refers to the NZ Coastal Policy Statement 2010 (**NZCPS**) as a guide to managing the coastal environment and that management of coastal reserves needs to pay particular regard to Policy 26 of the NZCPS. That policy states:

Natural defences against coastal hazards

- (1) *Provide where appropriate for the protection, restoration or enhancement of natural defences that protect coastal land uses, or sites of significant biodiversity, cultural or historic heritage or geological value, from coastal hazards.*
- (2) *Recognise that such natural defences include beaches, estuaries, wetlands, intertidal areas, coastal vegetation, dunes and barrier islands.*

In addition, Policy 27 provides guidance on strategies for protecting significant existing development from coastal hazard risk. These relevant NZCPS policies should be addressed in any application for landowner approval and will be considered by Council as part of the landowner approval process.

Both the Reserves General Policies and the specific Reserve Management Plan should be read together for a complete picture of reserve management.



Moutere-Waimea Ward Reserves Management Plan August 2000 (updated 2017)

The most relevant sections of the Moutere-Waimea Ward Reserves Management Plan are 5.7 (public access and use), 5.12 (buildings), 5.24 (adjoining land uses) and 6.7 (rural recreation and esplanade reserves). Some of the key themes relevant to coastal erosion protection structures (in addition to the Reserves General Policies above) are:

- Structures should not unnecessarily restrict foot access onto or across the reserves.
- Construction of buildings on reserves are prohibited unless compatible with the primary purpose of the reserve, necessary to meet a demonstrated demand for public use, and permitted by the management policies for the reserve.
- That all new buildings are required to meet design standards specified by the Proposed TRMP and other relevant legislation and are required to be accompanied by an assessment showing how the building and its colour will be compatible with the protection of the open space and amenity values of the reserve.
- Consultation with neighbouring residents where significant developments are proposed on adjoining Reserve Land will be required.
- The construction of buildings and facilities will be allowed only where necessary for recreational use or management of the reserve.

Each reserve within this Ward also has specific policies that apply to each individual reserve. Those specific policies also need to be considered and addressed in any application to the Council for landowner approval.

This Ward Reserve Management Plan is currently under review. Council anticipates adopting an updated Plan during 2021.

Richmond Ward Reserves Management Plan - March 1999

The most relevant sections of Richmond Ward Reserves Management Plan are 5.0 (general objectives), 6.24 (adjoining land uses) and 6.12 (Buildings). Some of the key themes relevant to coastal erosion protection structures (in addition to the Reserves General Policies above) are:

- Ensuring the efficient and effective use of open space and reserves in the Richmond Ward to meet community needs for recreation and amenity.
- Providing for access to the sea and other natural features.
- Construction of buildings on reserves are prohibited unless compatible with the primary purpose of the reserve, necessary to meet a demonstrated demand for public use, and permitted by the management policies for the reserve.



- All new buildings or structures, or alternatives to existing buildings or structures, are required to meet design standards specified by the Tasman Resource Management Plan and other relevant legislation.
- All proposals to construct or relocate buildings or structures on reserves are required to be accompanied by a landscape plan showing how the building and its colour will be compatible with the protection of the open space and amenity values of the reserve.
- Consultation with neighbouring residents where significant developments are proposed on adjoining Reserve Land will be required.

Each reserve within this Ward also has specific policies that apply to each individual reserve. Those specific policies also need to be considered and addressed in any application to the Council for landowner approval.

Motueka Ward Reserve Management Plan - May 2019

The most relevant sections of the Motueka Ward Reserve Management Plan are 1.0 (Ki uta ki tai), 4.1 (climate change) and 4.2 (evaluating new proposals). Some of the key themes relevant to coastal erosion protection structures (in addition to the Reserves General Policies above) are:

- Iwi/Māori will share decision-making to actively protect natural and physical resources.
- Soft engineering and adaptation to coastal erosion will be promoted, rather than hard defences.
- A 'managed retreat' approach to sea level rise will be taken by ensuring that coastal hazards and climate change are taken into account in the location, design and construction of all buildings, facilities and improvements, and that facilities and structures in high risk areas are designed to be removable or expendable.
- Activities will be assessed against the vision and key outcomes in Part 1 of the Plan.
- Cultural impact assessments will be required as part of process for assessing and evaluating proposed new land uses or activities on parks and reserves.

Each reserve within this Ward also has specific policies that apply to each individual reserve. Those specific policies also need to be considered and addressed in any application to the Council for landowner approval.

Golden Bay Ward Reserves Management Plan 2003

The most relevant sections of the Golden Bay ward Reserves Management Plan are 5.7 (public use and access), 5.12 (Building and Structures), 5.18 (landscaping and amenity planting), 5.24 (adjoining land uses) and 6.4.6 (Rural Recreation and Esplanade Reserves). Some of the key themes relevant to coastal erosion protection structures (in addition to the Reserves General Policies above) are:

- Structures should not unnecessarily restrict foot access onto or across the reserves.



- Construction of buildings on reserves are prohibited unless compatible with the primary purpose of the reserve, necessary to meet a demonstrated demand for public use, and permitted by the management policies for the reserve.
- That all new buildings are required to meet design standards specified by the Proposed TRMP and other relevant legislation and are required to be accompanied by an assessment showing how the building and its colour will be compatible with the protection of the open space and amenity values of the reserve.
- All significant reserve development proposals are to include a Council approved landscape plan.
- Consultation with neighbouring residents where significant developments are proposed on adjoining Reserve Land will be required.
- For Rural Recreation and Esplanade Reserves, policy 6.4.6 allows the construction of erosion-control works, subject to Council approval.

Each reserve within this Ward also has specific policies that apply to each individual reserve. Those specific policies also need to be considered and addressed in any application to the Council for landowner approval.

Tata Beach Reserves Management Plan 2007

The most relevant sections of the Tata Beach Reserves Management Plan are 5.7 (public access and use), 5.12 (buildings), 5.18 (landscaping and amenity planting), 5.24 (adjoining land uses), 6.0 (general objectives for Tata Beach reserves), 7.6 (Management of beachfront Esplanade Reserves (Lots 2, 9 and 30) and Recreation Reserve (Pt Lot 3)) and 7.9 (Coast Care Programme on Esplanade Reserves). Some of the key themes relevant to coastal erosion protection structures (in addition to the Reserves General Policies above) are:

- Fences, buildings or other structures should not unnecessarily restrict foot access onto or across reserves.
- Construction or relocation of buildings or structures on reserves are prohibited unless compatible with the primary purpose of the reserve, necessary to meet a demonstrated demand for public use, and permitted by the management policies for the reserve.
- That all new buildings or structures, or alterations to existing buildings or structures, are required to meet design standards specified by the Proposed TRMP and other relevant legislation and are required to be accompanied by an assessment showing how the building and its colour will be compatible with the protection of the open space and amenity values of the reserve.
- All significant reserve development proposals are to include a Council-approved landscape plan.
- Consultation with the public over any proposals to grant leases or licences over reserves where such leases or licences are not already provided for in the Plan.



- Include native species, propagated from plants native to the location, wherever possible in reserve planting programmes, including erosion-control plantings.
- Provide and enhance public access to the sea, streams and other natural features.
- Maintain and enhance the natural character of the coast.
- Adequately protect the significant natural and scientific values in the reserves of the Tata Beach settlement, such as landform, ecosystems, natural character, archaeological and heritage values.
- Minimise the adverse environmental effects of activities and facilities in the reserves on the amenity values of surrounding activities.

Each reserve at Tata Beach also has specific policies that apply to each individual reserve (see Section 7.0 of the Plan). Those specific policies also need to be considered and addressed in any application to the Council for landowner approval.

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Appendix 2

Application form

APPLICATION UNDER THE TASMAN DISTRICT COUNCIL POLICY ON COASTAL EROSION PROTECTION STRUCTURES ON COUNCIL RESERVE LAND

The purpose of this application form is to provide a guide to the information likely to be required as part of an application under the Tasman District Council Policy on Coastal Erosion Protection Structures on Council Reserve Land (**Policy**).

This application must be read with the Policy to ensure the correct information is included in the application. Please note that there are steps which must be met to proceed under the Policy (due to requirements of the Reserves Act 1977). The form indicates at what stages the application can no longer proceed if certain criteria are not met.

This application does not preclude the need to obtain any other consent or approval that may be necessary (for example, resource consent and/or building consent).

Tasman District Council reserves the right to request any further information it requires to process this application.

Please send application and supporting documentation [include relevant Council office/address] to:

APPLICANT'S DETAILS

Name/s _____

Address _____

Phone _____

Email _____

List names of all applicants if more than one. To be an applicant, your land needs to be adjacent to the Reserve Land.

I/We request the Tasman District Council consider the establishment of a coastal erosion protection structure on Reserve Land in the Tasman District as described below:



RESERVE LAND DETAILS

- 1 Name and location of the Reserve Land:**
 [Provide space for written answer]
- 2 The Reserve Land is adjacent to the land described below:³**
 Legal description of the adjacent properties:
 Name of registered owners: [Provide space for written answer]
- 3 Have you consulted with the parties listed above (if they are not joint applicants):**
Provide details of the consultation and any outcomes: Yes/No
- 4 The application is made with the authority of all adjacent landowners:** Yes/No
- 5 The location of the Reserve Land is on the coast, and potentially subject to erosion by the sea:** Yes/No
- 6 The Reserve Land is classified as a local purpose (esplanade) reserve, recreation reserve or historic reserve under the Reserves Act:**
Provide the basis for your conclusion. eg confirmation from Council, or confirmation from a Reserve Management plan etc. Yes/No
- 7 The Reserve Land is owned by the Council or maintained by the Council as the administering body of the reserve and for which it has delegated authority to deal with landowner approvals:** Yes/No
Provide the basis for your conclusion. eg confirmation from Council, or confirmation from Reserve Management plan etc.

PROPOSED STRUCTURE

- 8 Is the proposal for a hard coastal erosion protection structure, eg seawalls, rock revetments, other forms of longshore solid artificial structures etc:** Yes/No
Details in relation to the design of the structure are required as part of the report in

³ Please attach a map or plan of the area clearly showing the location of the adjacent property and the position of the Reserve Land. Identify any neighbouring properties that may be affected - as required in the report in questions 14/15 below.



questions 14/15 below.

LOCATION OF THE COASTAL EROSION PROTECTION STRUCTURE [Step 1]

- 9 Is the proposed structure located above Mean High Water Springs (MHWS):

A survey identifying the location of the MHWS and the proposed location of the structure is required as part of the report in questions 14/15 below.

Yes/No

IF THE ANSWER TO ANY OF THE ABOVE IS 'NO' — YOU CAN PROCEED NO FURTHER UNDER THE POLICY

THE PURPOSE OF THE RESERVE LAND [Steps 2 and 3]

- 10 The Council needs to determine whether the establishment of the structure is consistent with the purpose of the Reserve Land. Tell us why you consider it is:

Please refer to the Policy (Step 2).

[Provide space for written answer]

- 11 The Council needs to determine whether the proposed structure is consistent with any relevant Reserve Management Plans. Tell us why you consider it is:

Please refer to the Policy (Step 3)

[Provide space for written answer]

IF THE COUNCIL DETERMINES THE ANSWER TO EITHER OF THE ABOVE IS 'NO' — YOU CAN PROCEED NO FURTHER UNDER THE POLICY

- 12 Does the establishment of the structure require the cutting or destroying of any tree/s or bush on the Reserve Land:

Yes/No

If yes, describe the extent of the works and tree/bush which is sought to be removed and why that is necessary — please refer to the Policy (Step 2)



13 Has consultation been undertaken with Iwi:

Provide details about who was consulted and what the outcome was — please refer to the Policy (Iwi involvement).

Yes/No

[Provide space for written answer]

Please note: There may also be a requirement for a cultural impact assessment under the relevant Reserve Management Plan. If so, that will need to be included with the application.

COASTAL EROSION PROTECTION STRUCTURE [Steps 4 and 5]

14 Is there a case for a coastal erosion protection structure:

Please assess and provide a report from a suitably qualified coastal management expert detailing —

- Why soft engineering options are not appropriate in the situation / are there any viable alternatives to the structure proposed
- The effectiveness of what is proposed and the likely longevity
- Potential adverse effects that may arise from what is proposed
- Alternative options, their predicted effectiveness/longevity and associated cost, compared to what is proposed

15 Design of the proposed structure and public access:

Provide a report from a suitably qualified coastal management expert detailing —

- The design of the structure, including whether the design is consistent with the purpose of the reserve (particularly in relation to access)
- Potential adverse effects on other properties, for example, any 'end effects', that may arise from what is proposed
- What impact will the design have on existing public access and what replacement public access is proposed
- Whether there are any other coastal works in the area or that are intended to be erected in the area.

COST AND MAINTENANCE [Step 6]

16 Who will be responsible for the cost of the coastal erosion protection structure - both construction and maintenance:



Please refer to the Policy (Step 6)

[Provide space for written answer]

- 17 Who will be responsible for the maintenance and repair of the coastal erosion protection structure and do you have agreement from all landowners who benefit from the structure for ongoing responsibility for it and any liability arising from the structure:**

Please refer to the Policy (Step 6)

[Provide space for written answer]

- 18 Do any special circumstances apply which the Council should take into account when considering whether to enter into a cost arrangement in relation to the construction, maintenance or repair of the coastal erosion protection structure:**

eg who is receiving the benefits from the proposal, who is paying and how is it funded etc — please refer to the Policy (Step 6)

[Provide space for written answer]

Please note: part of the process for obtaining approval for erecting coastal erosion protection structures on Reserve Land will be that the Council will enter into agreements (of varying kinds) with landowners that detail various matters that need to be recorded, including a mechanism to allow the occupation of the Reserve Land (most likely a licence). The Reserves Act and the relevant Reserve Management Plans determine what sort of mechanism can be used, any process requirements and what conditions are to apply.

OTHER CONSENTS [Steps 9 and 10]

- 19 Do you already have resource consent for this structure, or are you planning on applying contemporaneously or after this approval is determined:**

Please refer to the Policy (Step 9)

[Provide space for written answer]

- 20 Do you already have building consent for this structure, or are you planning on applying contemporaneously or after this approval is determined:**

Please refer to the Policy (Step 10)

[Provide space for written answer]

COLLECTION AND USE OF INFORMATION

I understand that the information contained in this application is subject to the Privacy Act 2020 and will only be used for the purpose for which it is collected being the application for Coastal Erosion



Protection Structures on Council Reserve Land. Tasman District Council will retain personal information for only as long is necessary to fulfil the purposes for which it is collected and will only use or share personal information where necessary to carry out the functions for which it was collected, or if required by law.

You may inquire about and seek access to personal information about you or request information under the Local Government Official Information and Meetings Act 1987 by contacting Tasman District Council at **03 543 8400** or email info@tasman.govt.nz

Name/s _____ **Signature** _____

Date _____

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No.	INFORMATION SUPPLIED	CHECKLIST
1	Contact details of the registered owners with adjacent properties to the Reserve Land	<input type="checkbox"/>
2	Map or plan — showing the location of the property/properties adjacent to the Reserve Land	<input type="checkbox"/>
3	The classification of the Reserve Land	<input type="checkbox"/>
4	Record of title — showing the Reserve Land is owned by the Council or maintained by the Council	<input type="checkbox"/>
5	Map or plan and structure details — detailing the exact location of the proposed coastal erosion protection structure, dimensions, materials, etc	<input type="checkbox"/>
6	Surveyed location — providing the location of the MHWS and location of the structure in relation to it	<input type="checkbox"/>
7	Photos of the Reserve Land — showing, where relevant, any tree or bush which is proposed to be removed	<input type="checkbox"/>
8	Expert report — setting out: <ul style="list-style-type: none"> <li data-bbox="323 1272 1066 1305">• The qualifications of the expert (must be suitably qualified). <li data-bbox="323 1328 1174 1384">• The information required under questions 14 and 15 in relation to the coastal erosion protection structure and design. 	<input type="checkbox"/>

Please note: There may also be a requirement for a cultural impact assessment under the relevant Reserve Management Plan. If so, that will need to be included with the application.

9.4 STRATEGIC POLICY AND ENVIRONMENTAL POLICY ACTIVITY REPORT

Decision Required

Report To:	Strategy and Policy Committee
Meeting Date:	19 August 2021
Report Author:	Jenna Neame, Team Leader - Infrastructure Planning; Barry Johnson, Environmental Policy Manager; Wouter Woortman, Senior Infrastructure Planning Advisor - Stormwater
Report Number:	RSPC21-08-4

1 Summary

- 1.1 This report provides the Committee with an update on some of the key highlights of the Service and Strategy Group's strategic policy and environmental policy work.
- 1.2 The report seeks approval to adopt and publicly notify the decisions of the hearing panel for Plan Change 71 - Coastal Occupation Charges and Plan Change 72 - Moorings and Coastal Structures in accordance with the First Schedule of the Resource Management Act 1991.
- 1.3 The report provides a revised programme for the completion of the review of Council's involvement in older persons housing.

2 Draft Resolution

That the Strategy and Policy Committee:

1. **receives the Strategic Policy and Environmental Policy Activity Report RSPC21-08-4; and**
2. **receives the recommended decisions from the Hearing Panel for Plan Change 71 – Coastal Occupation Charges (Attachment 1 dated 19 August 2021) and Plan Change 72 – Moorings and Coastal Structures (Attachment 2 dated 19 August 2021); and**
3. **accepts the recommended decisions for Plan Change 71 – Coastal Occupation Charges (Attachment 1) and Plan Change 72 – Moorings and Coastal Structures (Attachment 2) as the decisions of the Committee; and**
4. **agrees to publicly notify the decisions for Plan Change 71- Coastal Occupation Charges and Plan Change 72- Moorings and Coastal Structures as soon as practicable and in accordance with the First Schedule of the Resource Management Act 1991; and**
5. **agrees to adopt Plan Change 71 – Coastal Occupation Charges and Plan Change 72 – Moorings and Coastal Structures, and affix the Tasman District Council Seal to the adopted plan changes, where no appeals to the Environment Court are received; and**
6. **agrees to refer the adopted plan change as set out in Attachments 1 and 2 to the Minister of Conservation for approval; and**
7. **notes that following approval from the Minister of Conservation, Plan Change 71 – Coastal Occupation Charges and Plan Change 72 – Moorings and Coastal Structures**

will be publicly notified as operative as required by Schedule 1 of the Resource Management Act 1991; and

- 8. agrees to continue the review of Council’s older persons housing in accordance with the following programme:**

Milestone	Completion
Steering Group workshop – agree options for consultation	October 2021
Development of options document	November – December 2021
Initial Community Board, iwi and other stakeholder options consultation	February – April 2022
Steering Group consideration of consultation feedback	May 2022
Council agreement to preferred option	June 2022
Development of draft consultation document for LTP amendment and audit of the document	July – September 2022
Adoption of draft consultation document by Council	September 2022
Consult on LTP amendment using the special consultative process and final audit of the LTP amendment	November 2022 – February 2023
Final decision by Council and adoption of amendment	March 2023
Commence process for divestment or transfer	April 2023
Conclude process	November 2023

3 Purpose of the Report

- 3.1 This report provides the Committee with an update on some of the key highlights of the Service and Strategy Group's strategic policy and environmental policy work.
- 3.2 Additionally the report provides a revised programme for the completion of the review of Council's older persons housing in response to resolution OC20-10-5 of the Operations Committee in October 2020.

4 Strategic Policy Update – Jenna Neame

- 4.1 The following table contains an update of the key projects and activities that the Strategic Policy Team staff either manage or are involved in.
- 4.2 Over the last month the Infrastructure Planning Team has been engaged in preparing the Expression of Interest applications for Kāinga Ora's Infrastructure Acceleration Fund (IAF). The information that is required by Kāinga Ora is extensive and requires staff to collaborate closely with staff within the Community Infrastructure Group as well as developers and landowners that Council selected to partner with. Work on the IAF may result in work programmes in the table below being delayed. Council's application to the IAF will be submitted on 18 August.

Project	Description	Status	Comments
Long Term Plan (LTP) 2021-2031	Comprehensive plan of Council's activities and projects for 10 years and how Council will fund them. The LTP is reviewed every three years.	Delayed	<p>The final LTP was adopted on 30 June 2021. The adopted version is currently available online. Staff are now reviewing the proof of the final designed version, it will be available online prior to 31 August 2021, one month later than first planned.</p> <p>Staff have begun preparing responses to submitters. This process is taking longer than expected due to the large number of submissions received and complexity of matters raised. Staff will respond to all submitters prior to 31 August 2021, one month later than first planned.</p>

Project	Description	Status	Comments
Annual Report 2020/2021	Financial and performance reporting for 2020/2021, Year 3 of the Long Term Plan 2018/2028.	On track	The project is underway with financial and non-financial information being gathered. Staff have planned to adopt the Annual Report on 21 October 2021. However recent legislation has extended the deadline for completion of annual reports to 30 November 2021 due to auditing capacity constraints. Audit NZ has indicated a desire to renegotiate the timing of Tasman's audit and consequently the timeline to complete the Annual Report will be revised.
Annual Residents Survey	A survey of a representative sample of residents to get feedback on Council performance	On track	Staff are preparing a report which is to provide an overview and analysis of the annual residents' survey. It will be presented to the next Strategy and Policy Committee meeting.
Project Kōkiri - the Nelson Tasman Economic Response & Regeneration Action Plan	Project Kōkiri is a collaboration that NRDA is leading in partnership with Council, the Nelson Tasman Chamber of Commerce, Nelson City Council, iwi, and the regionally-based government agencies. It initially set out our plan for targeted economic stimulus activity over the next 12 months to help protect and create new jobs, stimulate local spending, and attract investment into the region. Project Kōkiri 2.0 is a five year strategy to bridge between the immediate response to the Covid 19 pandemic to the longer term aspirations of the Te Taihu Intergenerational Strategy.	On track	Project Kōkiri 2.0 has been released to Council. Information was presented at a workshop on 29 July 2021.
Interim Policy on Giving Consent to Fly Unmanned Aircraft over Council Land	Staff have commenced a review of this policy as part of the periodic review of Council policies.	Delayed	Staff hope to arrange a workshop in September to seek Councillors views about whether to continue with this work given likely changes in national legislative/regulatory settings in the next few years.

Project	Description	Status	Comments
Reserve Management Plan projects	<p>Staff are preparing a draft Moutere-Waimea Ward Reserve Management Plan (RMP). Further information about this project (including an updated timeline) is available online at:</p> <p>www.tasman.govt.nz/my-council/projects/moutere-waimea-reserves-project/</p>	Delayed	<p>Staff are preparing a draft Moutere-Waimea Ward RMP. Good progress has been made on developing draft Plan content. However, additional time is needed to allow for iwi engagement prior to public consultation.</p> <p>The two-month submission period on the draft RMP is now planned to take place from mid-October to mid-December 2021. Hearings would be held in February 2022. Staff anticipate presenting the final plan to Council for adoption in March 2022.</p>
Tasman Climate Action Plan	<p>Council adopted the Tasman Climate Action Plan (TCAP) in September 2019. The Plan is available online at</p> <p>www.tasman.govt.nz/link/climate-action</p>	On track	<p>Updates on TCAP initiatives are now provided in the 'Climate Change Update' report to alternate Strategy and Policy Committee meetings.</p>
Waimea Inlet Action Plan	<p>Council adopted the 'Waimea Inlet Action Plan' in March 2019. The action plan was developed to implement the 'Waimea Inlet Management Strategy 2010'. Both are available online at:</p> <p>https://www.tasman.govt.nz/my-council/key-documents/more/environment-reserves-and-open-space/waimea-inlet-management-strategy/</p>	On track	<p>A review of both the Management Strategy and Action Plan documents is underway. Staff anticipate that both documents will be reviewed by June 2022.</p> <p>Updates on the MfE-funded projects relating to Waimea Inlet are included in the Environmental & Planning report to Council's Operations Committee.</p>

Project	Description	Status	Comments
<p>Richmond Programme Business Case (NZTA Project)</p>	<p>The Richmond Programme Business Case (PBC) is led by Waka Kotahi / NZTA to identify issues and develop an improvement plan to address these issues. This work is being undertaken alongside the Nelson Future Access Project (NFAP) to ensure consistency across the network.</p>	<p>On track</p>	<p>Target completion date: late 2021</p> <p>Staff have developed an emerging preferred programme of works based on workshops with key stakeholder and a technical assessment.</p> <p>Staff are currently undertaking community engagement on the preferred programme to complete the draft programme for Waka Kotahi and Council consideration.</p> <p>The final PBC (including endorsement from Waka Kotahi and Council) is expected in the 4th quarter of 2021.</p>
<p>Walking and Cycling Strategy</p>	<p>Develop a walking and cycling (active transport) strategy to guide development of our walking and cycling networks across the District.</p> <p>This will help address key transportation issues for our District.</p> <p>This work is in line with the direction that Central Government has given and with our community expectations.</p>	<p>Delayed</p>	<p>Target completion date: to be confirmed.</p> <p>Staff have developed a draft document which will be workshopped with the Council in September.</p> <p>At the workshop, staff will seek direction from the Council on the method and timing of public consultation.</p>
<p>Regional Boat Access Study</p>	<p>Undertake a study to determine a location, and scope of works for a boat ramp and associated facilities within Tasman Bay.</p>	<p>On track</p>	<p>Target completion date: September 2021</p> <p>Staff have had a follow up hui with iwi to discuss revised options.</p> <p>Staff will workshop the options with Council in September before presenting a final report to Council in October.</p>

Project	Description	Status	Comments
Richmond South Stormwater planning	<p>Development of a stormwater management plan for existing and future development areas in Richmond South, including cross section designs for planned drain upgrades.</p> <p>Stormwater Management Plan will feed into a structure plan for the area.</p>	On track	<p>Target completion date: December 2021</p> <p>The model has been updated with new lidar and updated hydrology. The model provides flows and flood extents for current and future development scenarios, including climate change effects. This information is now used to design green stormwater corridors in Richmond South.</p>
Motueka Catchment Management Plan (CMP)	<p>The Motueka CMP will identify and address key issues such as flooding, water quality, stream health and effects from developments in a holistic manner, similar to the Richmond CMP.</p>	On track	<p>Target completion date: 4th quarter 2021</p> <p>The individual components that feed into the CMP have been finalised and the digital “storymap” format has been drafted. A hui with iwi has been scheduled in mid-August. Staff will present a draft CMP in a workshop to Council in September.</p>
Māpua, Ruby Bay and Coastal Tasman Stormwater Modelling	<p>A stormwater model for Māpua, Ruby Bay and Coastal Tasman to identify locations that are at risk of stormwater flooding in 1% and 10% AEP events.</p>	On track	<p>Target completion date: June 2022</p> <p>The Māpua/Ruby Bay stormwater model is currently being used to identify and test high level solutions for future growth and key areas of concern.</p>
Overland Flowpath Management	<p>Overland flowpaths have been mapped and verified in the field for all urban area. This next phase of the project is about identification of key overland flowpaths and works required to reinstate or improve them. The aim is also to put legal mechanism in place that protect overland flowpaths from development.</p>	On track	<p>Target completion date: TBC</p> <p>A consultant has been engaged and staff are awaiting a proposal that addresses the scope.</p>

Project	Description	Status	Comments
Richmond Stormwater Monitoring Programme	In accordance with conditions of consent Council is required to develop a stormwater monitoring plan for Richmond.	On track	<p>Target completion date: June 2022</p> <p>A consultant has been engaged to develop a monitoring plan that will include water quality sampling as well as a system to monitor progress on the actions identified in the Richmond CMP. The monitoring plan will be developed in close collaboration with Council's freshwater scientist.</p>
Water Network Modelling	Modelling of various water supply networks.	On track	<p>Target completion date: Brightwater (August 2021) & Māpua/Ruby Bay (complete)</p> <p>Staff have engaged a consultant to develop a hydraulic model for the Brightwater network and are collating data for the model build. Staff anticipate the model to be completed in August 2021.</p>
Three Waters Submissions	<p>Staff prepares submissions on a variety of issues in the three water space. These currently include:</p> <ul style="list-style-type: none"> • Water Services Bill and associated exposure drafts • Fluoridation Bill (SOP No.38) 	Completed	<p>Staff anticipate central government will release a report on changes to the Water Services Bill on 11 August and plan to make submissions on related exposure drafts in due course.</p> <p>The Operations Committee approved Council's submission on SOP 38 on 24 June 2021. Staff will advise Council when the Health Select Committee has made a final decision on Fluoridation.</p>

Project	Description	Status	Comments
Modelling	<p>Modelling of Waimea network</p> <p>Network monitoring, data analysis and model outputs will inform the timing of specific capital works projects that are planned as part of the Waimea Wastewater Network Strategy.</p>	Delayed	<p>Target completion date: December 2021</p> <p>Staff have engaged consultants to undertake a four staged modelling project for the Waimea wastewater trunk main.</p> <p>Consultants have recommended collection of additional flow data before building and calibrating the model.</p> <p>The planned installation of flow gauges has been delayed due to the IAF response.</p>
Motueka Wastewater Strategy	Development of a long-term wastewater network strategy for Motueka, including the relocation of the Wastewater Treatment Plant.	Delayed	<p>Target completion date: 2021/22</p> <p>Staff are working with iwi to refine cultural criteria for the site criteria framework. Staff plan to present the completed score framework at the next hui scheduled on 1 September.</p> <p>Target completion date has been delayed due to resourcing constraints within the working group.</p>

5 Environmental Policy Update – Barry Johnson

Decision on Plan Change 71 Coastal Occupancy Charges, Plan Change 72 Moorings and Coastal Structures and Moorings Area Bylaw

- 5.1 Plan Change 71 Coastal Occupancy Charges, Plan Change 72 Moorings and Coastal Structures and Moorings Area Bylaw were publicly notified on 20 June 2020. The following submissions were received:
- Plan Change 71: 11 submissions
Plan Change 72: 20 submissions
Moorings Area Bylaw: 12 submissions.
- 5.2 The summaries of decisions requested by submitters for Plan Changes 71 and 72 were notified on 7 November 2020. One further submission was received on Plan Change 72. The Committee has previously received a link to the submission summaries and the summaries are available on [Council's website](#).
- 5.3 The hearing for the two plan changes and the bylaw took place on 25 May 2021. The deliberations were held on 25 May 2021, following the hearing. The hearing and decision is complicated somewhat as the plan changes and the bylaw follow different processes under the Resource Management Act 1991(RMA) and the Maritime Transport Act 1994 respectively. To simplify matters, the Committee has previously resolved to delegate the

authority to hear and consider submissions on the Mooring Area Bylaw to the hearing panel for Plan Change 71-Coastal Occupation Charge and Plan Change 72- Moorings and Coastal Structures (RSPC20-02-5 refers).

- 5.4 The Hearing Panel consisted of Cr Maling (chair) and Crs Dowler and MacKenzie and Ms Tracey Kingi. Apologies were received from Cr Hill.
- 5.5 Submitters present: D Thomas (Torrent Bay Township Committee) and N Clifton (Motueka Yacht & Cruising Club).
- 5.6 The next steps require a resolution by Council to accept the recommendations of the hearings panel and to notify the decision in accordance with the requirements of Schedule 1 of the RMA. If no appeals are received on the plan changes then the next step required by the RMA is for the Council to affix its seal to the plan changes and to send the plan changes to the Minister for Conservation for approval. Once approval is received from the Minister of Conservation then the Council is required to publicly notify the plan change as operative.
- 5.7 This report is seeking Council agreement to the next steps outlined above. Subject to no appeals and a timely response from the Minister for Conservation, the plan changes should be made operative towards the end of 2021.
- 5.8 Submissions on the Mooring Area Bylaw were heard at the same time as the two plan changes and a separate resolution regarding the Mooring Area Bylaw will be brought before Council in accordance with the requirements of the Maritime Transport Act 1994. The provisions in the Plan Change 72 and the Mooring Area Bylaw have been drafted so that both documents are required to be operative before the Mooring Area provisions come into effect. If there is a lag between the two documents becoming operative e.g. an Environment Court appeal then the non-affected document remains dormant until they are both made operative.

Tasman Environment Plan

- 5.9 The team is continuing to work with landowners on the Outstanding Landscapes and Coastal Environment project. Further site visits are being arranged so the Landscape Architect can visit properties where it is needed to discuss ONL/ONF boundaries with landowners. A revised set of maps will be published once all site visits and assessments have been completed.
- 5.10 Community engagement on Coastal Hazards to discuss high level options is planned for September. A report that discusses the options available at a regional scale will be released ahead of the engagement along with updated web pages.
- 5.11 The following table gives a brief update on the significant environmental policy work streams, including Tasman Environment Plan work streams.

Project	Description	Status	Comments
Whole of Plan review	Review of the Tasman Regional Policy Statement and Tasman Resource Management Plan	On track – but future unclear	Team is developing issues and options on plan topics. Resource Management legislation review has created uncertainty. Project timelines will need to be reviewed when further information becomes available.

Project	Description	Status	Comments
E-Plan	Procurement and implementation of an electronic plan to replace paper based planning documents	In progress	Procurement in progress. Early conversations with supplier underway.
Takaka & coastal catchments water management (Takaka FLAG)	Development of a plan change to implement the National Policy Statement for Freshwater Management	On track	Draft plan change is in development. Staff are completing further analysis to aid decisions on some outstanding recommendations.
Te Waikoropupū WCO (note: not a Council process)	Application for a Water Conservation Order over Te Waikoropupū and the supporting aquifer.	In progress	Court mediation is ongoing. Expert conferencing is underway. No hearing date yet. Anticipate hearing could be late 2021/early 2022.
Waimea Plains water quality management (Waimea FLAG)	Project to activate nutrient management plan requirements in Tasman Resource Management Plan.	On track	Working with stakeholders and past Waimea FLAG members to develop an issues and options paper.
Action for healthy waterways	Government's package of legislative reforms around management of freshwater	In progress	Working with iwi, Nelson City Council and Marlborough District Council to develop a Te Tau Ihu wide plan for implementing new NPS requirements. New policies required by NPS were inserted into TRMP on 19 December 2020.
Coastal Hazards	Project to identify and manage coastal hazards in Tasman.	On track	Vulnerability and Risk assessment complete. Working with iwi to identify iwi values at risk. Next round of community engagement is being planned for September 2021.
Growth/Future Development Strategy	Ongoing work to implement the Nelson Tasman Future Development Strategy.	On track	Review of current FDS commenced 1 July 2021.
Mooring management review Coastal occupation charges	Project to change the way moorings are managed and to develop policy on coastal occupation charges.	On track	Hearings completed. Decision recommended for release in this report.
Programme of urban re-zonings arising from Special Housing Areas (SHA).	Plan change project to fix zoning anomalies that resulted from SHA gazettals.	On track	Hearing held on 18 August. Decision pending
Omnibus 2 plan change	Omnibus to tidy up a number of minor errors and anomalies in the TRMP	On track	Decision on hearing panel part of this report. Hearing likely to be October 2021.

6 Council Older Persons Housing Review – Richard Hollier

- 6.1 In October 2020, Council agreed to suspend the review of Council’s Older Persons Housing until at least August 2021 and requested the Reserves and Facilities Manager to report back with a revised programme for the completion of the review prior to the end of August 2021. The reason for suspending the review was due to the workloads around the Long Term Plan (LTP) and as there was no urgent pressure to complete the process.
- 6.2 A revised timeline has been prepared – outlined below. The timeline suggests restarting the process in October 2021. A possible outcome of the review could be the transfer of ownership or control of the housing portfolio, which is a strategic asset in Council’s Significance and Engagement Policy and in terms of the definition of a strategic asset under section 5 of the Local Government Act 2002. Section 97 (1)(b) of the Act identifies that a decision to transfer the ownership or control of a strategic asset from a local authority will require an amendment to the LTP. Both the consultation document on the proposed LTP amendment and the final amendment to the LTP will require auditing by Council’s auditor, Audit New Zealand. The alternative would be to delay a decision on this matter until it can be consulted on through the next LTP process in 2024.
- 6.3 The process will realistically take around two years to complete and require considerable staff resource and some external resources.

Milestone	Completion
Steering Group workshop – agree options for consultation	October 2021
Development of options document	November – December 2021
Initial Community Board, iwi and other stakeholder options consultation	February – April 2022
Steering Group consideration of consultation feedback	May 2022
Council agreement to preferred option	June 2022
Development of draft consultation document for LTP amendment and audit of the document	July – September 2022
Adoption of draft consultation document by Council	September 2022
Consult on LTP amendment using the special consultative process and final audit of the LTP amendment	November 2022 – February 2023
Final decision by Council and adoption of LTP amendment	March 2023
Commence process for divestment or transfer	April 2023
Conclude process	November 2023

- 6.4 Once the programme is adopted a letter will be sent to all the housing residents to advise them of the new programme and provide assurance on protection of their welfare.

Attachments

- | | | |
|----------------------|--------------------------------------------------|----|
| 1. ↓ | Plan Change 71 - Coastal Occupancy Charges | 63 |
| 2. ↓ | Plan Change 72 - Moorings and Coastal Structures | 77 |



Tasman Resource Management Plan

Plan Change 71: Coastal Occupation Charges

Decision Report

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

19 August 2021

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1.0 Introduction

This report provides the decision of Tasman District Council (Council) for Plan Change 71 – Coastal Occupation Charges (Plan Change). The decisions on the Plan Change and reason 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 72 (Mooring and Coastal Structures) 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 also 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

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 without Modification**. The specific amendments to the TRMP arising from this Plan Change can be found in Appendix 1: Schedule of Amendments.

The Plan Change is technical in nature and was undertaken primarily to meet obligations under Section 401A of the Resource Management Act 1991 (RMA) which requires Council to include a statement in the TRMP addressing coastal occupation charges. All but one submission supported the Plan Change and the Section 42A report and evidence presented at the hearing raised no significant concerns. The one submission which opposed the Plan Change sought the deletion of the Plan Change, which was declined primarily as the decision requested was contrary to the requirements of Section 64A, 401A and 32(1) of the RMA

After considering the recommendations of the Hearing Panel, the Strategy and Policy Committee made the decision to accept the Plan Change without modification on the 19 August 2021.

4.0 Background

4.1 The Plan Change

Coastal occupation charges are a charge under the RMA that can be made against any person who occupies public space within the coastal marine area. Charges can apply to, but are not limited to,

wharves, jetties, moorings, marinas, boat ramps, cables, pipes and marine farms; and those activities that are long-term occupations of the coastal marine area. Temporary and transient uses of the coastal marine area like fishing, swimming and anchoring vessels are not considered to be coastal occupations. The RMA (Sections 64A, 401A) requires Council to address coastal occupation charges in the regional coastal plan.

In 1991 when the RMA first gained ascent, it included provisions for “coastal rentals” which applied to most coastal structures. The coastal rentals were to be administered by regional councils and the revenue was to be passed on to central government. The amount to be paid was set by the Resource Management (Transitional, Fees, Rents and Royalties) Regulations 1991. Regional councils, with the exception of Southland, refused to implement the coastal rentals and urged the Government to amend the legislation to allow the revenue collected from the coastal rentals to be retained by regional councils. In 1997, the RMA was amended and coastal rentals were replaced with coastal occupation charges. This change enabled councils to charge for coastal occupation, with the proviso that any charges collected had to be spent on the sustainable management of the coastal environment within the region. Further changes to the RMA in 2010 precluded coastal occupation charges being imposed on protected customary rights group or customary marine title group exercising a right under Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011 (MACA Act 2011).

The principles underlying coastal occupation charging are that:

- Public access to and within the coastal marine area is protected and private occupation of the coastal marine area is a privilege and not a right; and
- Where private occupation has an adverse effect on public access to and use of the coastal marine area, then some form of compensation for the loss is appropriate.

Coastal occupations charges are a method by which the public can be ‘recompensed’ for the loss of the ability to use and access public space. There are clear analogies with land-based activities. For example, if somebody wished to use a local or national park for commercial purposes, e.g., coffee carts or concession stand, they would expect to pay for use of that space. The only difference with coastal occupation charges is that there are restrictions on what the money paid can be spent on.

Section 401A of the RMA (Transitional Coastal Occupation Charges) requires Council to include a statement or charging regime for coastal occupation charges in the TRMP. A statement or charging regime could be included at any time, however, after 2014 a statement or regime is required to be undertaken at the same time as the first change to the regional coastal plan. Proposed Plan Change 72 (Moorings and Coastal Structures) is the first change to the regional coastal plan. The purpose of this Plan Change is solely to meet the requirement of Section 401A of the RMA and enable Proposed Plan Change 72 to be notified.

Before making a decision of whether or not to include a regime for coastal occupation charges, Council was required under Section 64A(1) of the RMA to have regard to both public benefits (lost and gained) and private benefits (gained) in determining whether or not to introduce a charging regime. After undertaking that assessment (see Section 2 of the Section 32A report) Council decided it was appropriate to charge for the private occupation of the coastal marine area where the private benefit outweighed the public net benefit.

However, following further evaluation of the options under Section 32 of the RMA (see Section 3 of the Section 32A report), Council determined that the risk of implementing a coastal occupation-charging regime, at that point in time, was too high due to lack of clarity in the legislation and a number of barriers to implementation. Council decided that the most appropriate course of action was to introduce a statement into the TRMP supporting coastal occupation charges in principle, but not to introduce coastal occupation charges regime at that time, and to continue working towards developing a fair and equitable regime.

On 27 February 2020 the Strategy and Policy Committee recommended that the Plan Change be notified. On 20 June 2020, Proposed Plan Change 71 was publicly notified with submissions closing on the 27 July 2020. Eleven 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. No further submissions were received.

Nine submissions supported the Plan Change, one submission opposed the Plan Change and one submission requested changes to the text.

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 72 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 401A: Transitional Coastal Occupation Charges

...

- (4) *Where no provision for coastal occupation charges has been made in a regional coastal plan or proposed regional coastal plan by the expiry date [1 October 2014], the regional council must, in the first proposed regional coastal plan or change to a regional coastal plan notified on or after the expiry date, include a statement or regime on coastal occupation charges in accordance with section 64A.*
- (5) *In this section, expiry date means the date that is 3 years after the commencement of section 59 of the Resource Management Amendment Act (No 2) 2011.*

This section requires Council to include a statement or charging regime in the regional coastal plan, when it next notifies a change to the regional coastal plan.

Section 64A: Imposition of Coastal Occupation Charges

(1) Unless a regional coastal plan or proposed regional coastal plan already addresses coastal occupation charges, in preparing or changing a regional coastal plan or proposed regional coastal plan, a regional council must consider, after having regard to—

(a) The extent to which public benefits from the coastal marine area are lost or gained; and

(b) The extent to which private benefit is obtained from the occupation of the coastal marine area,—

whether or not a coastal occupation charging regime applying to persons who occupy any part of the common marine and coastal area should be included.

(2) Where the regional council considers that a coastal occupation charging regime should not be included, a statement to that effect must be included in the regional coastal plan.

(3) Where the regional council considers that a coastal occupation charging regime should be included, the council must, after having regard to the matters set out in paragraphs (a) and (b) of subsection (1), specify in the regional coastal plan—

(a) The circumstances when a coastal occupation charge will be imposed; and

(b) The circumstances when the regional council will consider waiving (in whole or in part) a coastal occupation charge; and

(c) The level of charges to be paid or the manner in which the charge will be determined; and

(d) In accordance with subsection (5), the way the money received will be used.

(4) No coastal occupation charge may be imposed on any person occupying the coastal marine area unless the charge is provided for in the regional coastal plan.

(4A) A coastal occupation charge must not be imposed on a protected customary rights group or customary marine title group exercising a right under Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011.

(5) Any money received by the regional council from a coastal occupation charge must be used only for the purpose of promoting the sustainable management of the coastal marine area.

This section defines what Council must consider before making a decision to impose a coastal occupation charging regime and what must be included in a charging regime. This section also requires the inclusion of a statement in the regional coastal plan should the decision be to not impose a charging regime. No further assessment under Section 64A has been made for this Decision, but it should be noted that this decision meets the requirements of Section 64A(2).

Part II

The Supreme Court found in 2014 that councils need not consider Part II of the RMA when making decisions on plan changes where the matter is fully addressed in the New Zealand Coastal Policy Statement (NZCPS). This Plan Change is unusual in that the NZCPS does not cover coastal occupancy charges and, for this reason, an assessment under Part II is required.

Part II of the RMA, section 5 states that the purpose of the Act is to promote sustainable management of natural and physical resources. Section 6(d) states that it is a matter of national importance to maintain and enhance public access to and along the coastal marine areas and section 7(b) refers to the efficient use of resources.

Coastal occupation charges are not mentioned in Part II. The environmental, economic and social effects of using and occupying the coast are assessed through a separate resource consent or the plan making process. Coastal occupation charges are a charge applied after that assessment and they do not directly affect the environment. However, as money received from coastal occupation charges is required to be spent on the sustainable management of the coastal environment, the charges are considered to support Section 5 of the RMA. A charging regime may also promote more efficient use of resources (Section 7(b)) by acting as a disincentive to the occupation of areas larger than required.

Coastal occupation charges are not thought to affect the relationship of Maori and their culture and traditions with the coast (Section 6(e)) and Section 64A (4A) prevents coastal occupancy charges being imposed on protected customary rights or customary marine title groups (6(g)). Coastal occupation charges could financially support Maori in their role as kaitiakitanga (Section 7a).

This Plan Change supports (in principle) the implementation of coastal occupation charges and the continued investigation into methods by which they could be implemented in the TRMP.

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 Plan Change without modification and for the reason that no changes have been made, no further evaluation has been undertaken under Section 32AA.

5.1.2 New Zealand Coastal Policy Statement 2010

The purpose of the New Zealand Coastal Policy Statement 2010 (NZCPS) is to state policies in order to achieve the purpose of the RMA in relation to the coastal environment. There are provisions in the NZCPS regarding the allocation and use of public space but no specific provisions regarding coastal occupation charges. To the extent that money received from a charging regime is to be spent on the sustainable management of the coastal environment is considered consistent with the policies of the NZCPS.

5.1.3 Tasman Regional Policy Statement

The Tasman Regional Policy Statement (TRPS) provides an overview of the resource management issues for Tasman and includes policies and methods to achieve integrated management of the natural and physical resources for the region.

Coastal occupation charges would support the general sustainable management objectives of the TRPS; however, the TRPS does not include any specific provisions relevant to coastal occupation charges.

5.1.4 Tasman Resource Management Plan (which includes the Regional Coastal Plan)

The purpose of the TRMP, in part, is to assist Council, in conjunction with the Minister of Conservation, to achieve the purpose of the RMA in relation to the coastal marine area in Tasman.

There are specific objectives and policies regarding the occupation of space in the coastal marine area, however, these policies seek to address environmental effects arising from the occupation, which is different to the purpose of coastal occupation charges. The TRMP does not include any specific objectives, policies or methods relating to coastal occupation charges.

5.1.5 Marine and Coastal Area (Takutai Moana) Act 2011

The Marine and Coastal Area (Takutai Moana) Act (MACAA) divests the common marine and coastal area from ownership and sets out a number of core rights for public use regarding access, fishing and navigation. MACAA specifically provides for the public to pass, re-pass, enter, stay in or on, and leave the common marine and coastal area without charge (Section 26), subject to provisions under other Acts and customary interests.

Coastal occupation charges only apply to longer-term and permanent occupations of the common marine and coastal area and do not affect transient and temporary uses like fishing, swimming and anchoring which are protected by this Act. Coastal occupation charges are not directly affected by this Act.

Summary of Statutory and Policy Framework

Sections 401A and 64A of the RMA require Council to either implement a coastal charging regime, or include a statement in the plan to the effect that Council has made the decision not to implement a charging regime, at the next change to the regional coastal plan. Section 64A sets out what must be considered before Council makes a decision and Section 64A(3) states what must be addressed in the charging regime. Beyond these sections, the RMA neither provides support nor opposes the introduction of coastal occupation charges, or provides details of what form a charging regime should take.

Coastal occupation charges are not discussed in either the TRPS or the TRMP.

To the extent that the RMA (including policy documents and plans) seeks sustainable management of the coastal environment, then it is considered that the imposition of a coastal occupation charging regime is the most appropriate way to achieve the purpose of the Act. The Plan Change supports the imposition of a charging regime, but does not implement one at that point in time for technical reasons. The Plan Change is considered to meet the requirements of the RMA and other legislation.

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 the following Section 6.2 provides the decision and reasons for the proposed changes. A copy of the changes to the TRMP arising from this Plan Change decision can be found in Appendix 1: Schedule of Amendments.

6.1 Plan Change 71 – as a whole

6.1.1 Introduction

This decision considers Proposed Plan Change 71 as a whole.

Summary of Submissions

The following submissions were received in support of the proposed plan change.

- Chris Rutledge (4168.1)
- Sanford Limited (4169.1)
- Torrent Bay Township Committee (2971.1)
- Marine Farming Association (4179.1)
- Thomas, Daryl (4170.1)
- Trevor Riley (2852.1)
- Nelson Pine Industries Limited (3495.1)
- Golden Bay & Tasman Bay Ring Road Farming Limited et al (4166.1 & 2)
- Golden Bay Marine Farmers Consortium Limited (327.1)

One submission (4167.1) was received which opposed the Plan Change in its entirety and sought the deletion of the Plan Change. Submission (4167.1) is summarised as follows:

“It appears that Council has already decided to not charge, uncertain of the purpose of this consultation. Charging is a principle means of managing any limited resource, it is extraordinary that Council should decide not to use it. It appears that people holding mooring licences are being subsidised by the rest of the community of ratepayers. A mooring occupies approx. 1200 m². The submitter pays over \$4000 p.a. for 809m² section as a contribution for TDC functions. Why should a mooring not similarly pay a contribution? The consequence of not charging for moorings is already apparent at Trewavas St, there are several unused, derelict, unsightly boats moored there and there is no incentive for the owners to dispose of them properly when they are not charged for the privilege of mooring.

The wording of para 3 is unacceptably vague. Given that the section itself recognizes the importance of a charging regime, I would expect that Council would commit itself to a time line for developing and introducing a charging regime.”

With the exception of the above submission, all other submissions were either in support or support in part for the Plan Change (see Section 6.2).

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 required under Topic 2) and decline the decision sought in submission (4167.1) for the reason that the request would not meet the requirements in Sections 64A, 401A or 32(1) of the RMA.

Summary of Evidence Presented at the Hearing

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

6.1.2 Decision

That the Strategy and Policy Committee **accepts** Plan Change 71 **without modification**, as detailed in Appendix 1: Schedule of Amendments.

6.1.3 Reasons

The purpose of Proposed Plan Change 71 is to meet the requirements of Section 401A of the RMA which requires Council to either include a statement to the effect that charges will not be imposed (the option taken in this plan change) or impose a charging regime in the regional coastal plan. Council undertook an assessment under Section 64A of the RMA to determine the public benefits (lost or gained) and private benefits (gained) in determining whether or not to introduce a charging regime. Council reached the decision that, in principle, where private benefit is greater than public benefit, the public should be compensated through coastal occupation charges. However, when the imposition of coastal occupation charges was evaluated under Section 32 of the RMA, it was determined that the risk of implementing a coastal occupation charging regime, at that point in time, was too high due to lack of clarity in the legislation and a number of other barriers to implementation. The decision was made to include a statement in the TRMP supporting coastal occupations charges, but to defer the implementation until the legal and policy uncertainties around such a charging regime were resolved. Council would also continue to co-operate with and support other parties in the development of a legally defensible charging regime.

All submissions supported Council's decision (in principle) to impose coastal occupation charges, with one submission however opposing the plan change in its entirety and seeking the deletion of the plan change. The submitter expected the Council to commit itself to a timeline for developing and introducing a charging regime. The submitter did not attend the hearing or provide additional evidence for consideration.

Under the First Schedule of the RMA, Council can decide to withdraw or decline Proposed Plan Change 71 as requested by the submitter; however, such a decision would not meet the requirements of Sections 64A and 401A of the RMA or achieve the purpose of the Plan Change under Section 32A of the RMA.

If Council decided to withdraw or decline Proposed Plan Change 71, the status of Proposed Plan Change 72 – Moorings and Coastal Structures could also be challenged, because notification of Proposed Plan Change 72 relies on Section 401A of the RMA being given effect to.

After considering the matters raised in the Section 32 and 42A reports, evidence presented at the hearing the decision has been made to accept Proposed Plan Change 71 as notified without modification (see Appendix 1: Schedule of Amendments). This decision is considered to meet the purpose of the Act and the objectives of the Plan Change.

6.2 Amendments sought to the text

6.2.1 Introduction

Two submissions were received from the Friends of Nelson Haven & Tasman Bay Inc. requesting text amendments (1050.1 & 1050.2).

Summary of Submissions

The first request is summarised as follows:

(1050.1) Amend the first paragraph as follows:

~~In accordance with section 64A of the Act, Council is required to consider whether or not a coastal occupation charging regime applying to persons who occupy any part of the common marine and coastal area should be included in the Regional Coastal Plan".~~ Under the Resource Management Act 1991 (Act) regional councils are able to charge for the occupation of the coastal marine area (CMA). Coastal occupation charges cannot be imposed unless the charge is provided for in the regional coastal plan and ensure that private occupation of this public land is recognised, with the loss of public benefit adequately accounted for. The funds raised by such charges can be used not only to mitigate, remedy or otherwise manage the actual or accumulative effects in the area but also in the wider environment (a public benefit). There is no inherent right to occupy public space in the CMA; however, coastal occupation charges must not be imposed on a protected customary rights group or customary marine title group exercising a right under Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011."

Reason: Emphasis needs to be added to ensure that the "cost" of occupation of public space for private benefit is recognised. Southland Regional Council continues to charge coastal occupation charges; most other councils have failed to accept this cost to the public but have bowed to commercial and private pressure.

The second request is summarised as follows

(1050.2) In accordance with section 64A of the Act, Council is required to consider whether or not a coastal occupation charging regime applying to persons who occupy any part of the ~~common marine and coastal area~~ coastal marine area should be included in the Regional Coastal Plan..."

Reason: Due to the uncertainties associated with the MACA Act where land title extends into the CMA, for future clarity it is best to ensure the Coastal Marine Area which is specified in the Resource Management Act and New Zealand Coastal Policy Statement is used. As coastal occupation charges must not be imposed on protected customary rights groups or customary marine title groups exercising a right under the MACA Act, the use of the phrase here is confusing.

Summary of the Section 42A Report

(1050.1) The report found that the wording submitted added further information regarding the form and nature of coastal occupation charges. The proposed wording did not change the effect of the plan change and whether or not the wording was included was largely a matter of drafting. There was no recommendation.

(1050.2) The report found that the notified wording fulfils the requirements of Section 64A of the RMA regarding the need to have a statement in the TRMP and the notified wording was correct. If the suggested wording was adopted it would simplify the wording, but the wording could be challenged for being incorrect. The recommendation was that no change be made.

Summary of Evidence Presented at the Hearing

No material was presented at the hearing regarding these submissions

6.2.2 Decision

That the Strategy and Policy Committee **accepts** Plan Change 71 **without modification**, as detailed in Appendix 1: Schedule of Amendments.

6.2.3 Reasons

(1050.1) The wording proposed by the submitter adds further information regarding the form and nature of coastal occupation charges and was considered to be beneficial for that reason. However, the proposed wording did not have a material effect on the implementation of the coastal occupation charges and for reasons of brevity, the decision was made not to include the additional information.

(1050.2) The RMA 1991 requires Council to prepare a regional coastal plan for the coastal marine area which includes the foreshore, seabed and coastal water and covers the area from the mean high water mark seaward to the outer limits of the territorial sea. Under the MACA Act 2011 the coast is defined as the “*marine and coastal area*” and the area within the *marine and coastal area* which has no privately owned land, etc., is defined in the Act as the *common marine and coastal area*”. The *common marine and coastal area*, in essence, is the coastal marine area which is not privately owned.

As part of the enactment of the MACA Act in 2011, a number of consequential amendments were made to the RMA 1991. Section 12(2)(a) of the RMA was amended and permission “*to occupy any part of the coastal marine area*” was changed to permission to occupy any part of the “*common marine and coastal area*”. Similar consequential changes were made to Section 64A, which requires Council to include a statement regarding a coastal occupation charging regime for persons occupying the “*common marine and coastal area*” (*see below*).

Section 12(2) of the RMA: “No person may, unless expressly allowed by ...a rule in a regional coastal plan... or a resource consent, - (a) occupy any part of the common marine and coastal area; ...”

Section 64A(1) of the RMA: Imposition of coastal occupation charges requires the Council to consider “whether or not a coastal occupation charging regime applying to persons who occupy any part of the common marine and coastal area should be included”.

Section 401B of the RMA -Obligation to pay coastal occupation charge deemed condition of consent “In every coastal permit that – (a) authorises the holder to occupy any part of the common marine and coastal area; and”

The wording in MACA Act 2011 and the interplay with the RMA 1991 is complicated and it is acknowledged that it would be less confusing if the wording was changed to refer to the simpler and more commonly used *coastal marine area*, as requested by the submitter. However, to change the wording from *common marine and coastal area* to *coastal marine area* would be technically incorrect under Section 64A of the RMA 1991. For that reason, the decision has been made to not make the text amendments requested.

After considering the matters raised in the Section 32 and 42A reports, the decision has been made to accept Proposed Plan Change 71 as notified without modification. This decision is considered to meet the purpose of the Act and the objectives of the Plan Change.

Appendix 1: Schedule of Amendments

Part III: Coastal Marine Area - Add a new section at the end of Part III Introduction as follows:

“Coastal Occupation Charges

In accordance with section 64A of the Act, Council is required to consider whether or not a coastal occupation charging regime applying to persons who occupy any part of the common marine and coastal area should be included in the Regional Coastal Plan.

- Council agrees with the principle of coastal occupation charges and considers that an appropriate regime would assist in the sustainable management of the common marine and coastal area. However, given the legal and policy uncertainties around such a charging regime, Council has decided not to impose a charging regime at present.

- Until such a time that a charging regime is included in the Plan, the Council will continue to cooperate with and support other regional authorities and central government agencies in the development of a legally defensible charging regime. Council will also continue to advocate the necessary changes to the legislation and policy at a national level.”



Tasman Resource Management Plan

Plan Change 72: Moorings and Coastal Structures

Decision Report

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

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

(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.” Renummer 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 sea worthiness of boats is not particularly considered under the RMA or the TRMP and is largely addressed through a separate piece of legislation (Maritime Transport Act) which enables the Harbourmaster to act in matters of maritime safety. It is acknowledged that derelict boats and poorly maintained boats are an issue, particularly in Motueka and Otuwhero, however the issue is 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 Pile 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]

9.4 ACTION SHEET

Information Only - No Decision Required

Report To: Strategy and Policy Committee
Meeting Date: 19 August 2021
Report Author: Tara Fifield, Executive Assistant - Service and Strategy
Report Number: RSPC21-08-5

1 Summary

1.1 The action items are attached from previous Strategy & Policy Committee meetings.

2 Draft Resolution

That the Strategy and Policy Committee receives the Action Sheet RSPC21-08-5;

3 Attachments

1. [↓](#) Action Sheet - August 2021

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Action Sheet – Strategy & Policy Committee

Item	Action required	Responsibility	Completion Date	Status
Meeting Date – 8 July 2021				
Climate Change Update Report RSPC21-07-04	Staff were requested to send the MfE webinar slides included as Attachment 2 to the report, out to Crs in a clearer format	Anna Gerraty	Anna sent the webinar slides to Crs on 9 July	Complete
Strategic Policy, Environmental Policy & Activity Planning Report RSPC21-07-05	Staff to invite the local Director of Public Health to attend a Council meeting to discuss the nitrate issue	Lisa McGlinchey	The Director of Public Health is currently out of the country but will be invited to attend an upcoming meeting once he is back	In progress
Waimea Dam confidential presentation	Staff to prepare a report for the next Full Council meeting so that Council can make a formal decision if it wants to proceed with the hydro option	Mike Drummond	A report regarding this matter is included in the Full Council agenda for 12 August 2021	Complete