

## **Submission on the Proposed Marlborough Environment Plan**

**To:**

**Marlborough District Council**

**Attention Planning Technician**

**by email: [mep@marlborough.govt.nz](mailto:mep@marlborough.govt.nz)**

### **Submitter details**

1. Name of submitter: Yachting New Zealand Inc (YNZ)
2. Primary Contact: Andrew Clouston – Participation and Development Manager

### **Trade Competition**

3. YNZ could not gain an advantage in trade competition through this submission. In any event, the members of YNZ are, or could be, directly affected by the subject matter of the submission that:
  - a. adversely affect the environment; and
  - b. do not relate to trade competition or the effects of trade competition.

### **Council Hearing**

4. YNZ wishes to be heard in support of its submission. YNZ would be prepared to consider presenting a joint case with others who have made a similar submission.

### **Specific parts of the Proposed Plan the submission relates to**

5. The following:
  - a. Chapter 5 – Coastal Occupancy Charges (as addressed in submission of Waikawa Boating Club);
  - b. Chapter 13 – Policies 13.9.6(a), 13.15.2; Rules 13.6.4, 13.6.5, 13.6.6
  - c. Chapter 14 – Rules 14.5.4, 14.5.5, 14.5.6
  - d. Chapter 15 – Objective 15.1a-e; Policies 15.1.18, 15.1.19, 15.1.20;
  - e. Chapter 16 – Rules 16.7.2, 16.7.3, 16.7.4
  - f. Chapter 25 - Definitions

## **Submission**

YNZ's submission is:

### ***Introduction***

6. YNZ is New Zealand's National sports body for competitive and recreational sailing and boating. YNZ represents the needs and interests of over 250 member yacht and boating clubs and class associations. YNZ gets involved at both central and local government level when environmental and legal issues directly affecting New Zealand's recreational boat owners and operators are at issue.

### ***Objectives/policies***

#### *Chapter 5*

7. YNZ supports the submission of Waikawa Boating Club with respect to Coastal Occupancy Charges.

#### *Chapter 13*

##### *Policy 13.9.6 (a)*

8. The policy supports removal of a mooring from the coastal marine area in a range of circumstances, the majority of which are not opposed by YNZ. However, the proposed wording of subclause (a) lacks precision and could result in significant uncertainty. There is no clarity or certainty as to how the phrase "no longer a need for a mooring" would be interpreted and applied. Therefore subclause (a) is opposed.

##### *Policy 13.15.2*

9. The policy is intended to avoid, remedy or mitigate adverse effects on water transportation. However, the proposed wording of the policy does not capture all relevant matters. The policy should refer to recognised navigational routes (both commercial and recreational), recognised anchorages of refuge, and/or port or harbour approaches.
10. The *Definitions* (Chapter 25) require a consequential amendment by reference to the above, to define "Recognised Navigational Routes" and "Recognised Anchorages of Refuge".

## *Chapter 15*

### *Objectives 15.1a - e*

11. These objectives flow from issues 15A and 15C. The only objective which specifically addresses coastal waters is 15.1a.
12. Objective 15.1a seeks to maintain and where necessary enhance water quality including in coastal waters. However, the objective does not recognise:
  - a. recognition on a national scale by way of Regulation that management of discharge of untreated and treated sewage from vessels requires specific provision; and
  - b. health and safety risks to vessels if they are required to discharge sewage significant distances from Mean High Water Springs.
13. The discharge of sewage from ships<sup>1</sup> is controlled by the Resource Management (Marine Pollution) Regulations 1998 which provide for specific and limited variations through Coastal Plan provisions to the regulatory provisions controlling these discharges.
14. The regulations were made under s360 of the RMA, and legally are an exemption to s15. The regulatory controls on contaminant discharges from ships are not subject to the policy provisions of the New Zealand Coastal Policy Statement (“NZCPS”).<sup>2</sup>
15. As a result, specific objective, policy and rule treatment of discharge of sewage from ships is appropriate, and further making specific provision for such discharge is not contrary to the policy provisions of the NZCPS, and in particular Policy 23.
16. An objective should be introduced which makes specific reference to these health and safety matters.

### *Policies 15.1.18, 15.1.19 and 15.1.20*

17. Policies 15.1.18 and 15.1.19 address the discharge of untreated and treated human sewage to coastal waters. Policy 15.1.20 specifically addresses the discharge of human sewage from ships.
18. Policies 15.1.18 and 15.1.19 refer to avoiding or eliminating discharge of human sewage to coastal waters, which as worded would encompass discharge from ships, and therefore does

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<sup>1</sup> The RMA s2 definition references the definition in s2(1) of the Maritime Transport Act 1994. It covers the entire range of vessels from ocean-going ships to small recreational craft including dinghies and small yachts. However for practical purposes it is the larger yachts (generally keelers) and launches equipped with accommodation and marine toilets that the regulations are aimed at.

<sup>2</sup> This was recognised by the Board of Inquiry Report on the NZCPS - Volume 2 Working Papers page 300, 2008

not make provision for or allow for discharge of sewage from ships - conflicting with subsequent policy 15.1.20 which does anticipate such discharge.

19. These proposed policies relevant to the discharge of sewage from vessels in the coastal marine area, like the proposed objectives, fail to acknowledge the provision through national Regulation for discharge from vessels, and potential health and safety risks to vessel operators if they are required to discharge sewage at an increased minimum distance from Mean High Water Springs, or potentially must discharge sewage outside of the Coastal Marine Area (the seaward boundary of which is the outer limits of the territorial sea – being 12 nautical miles offshore from the low water mark along the coast of New Zealand).
20. Policies 15.1.18 and 15.1.19 should be amended to explicitly refer to discharges from land, and policy 15.1.20 should be amended to address appropriate matters relevant to discharge from vessels.

### **Rules**

*Chapters 13, 14, 15 and 16*

*Rules 13.6.4, 13.6.5, 13.6.6, 14.5.4, 14.5.5, 14.5.6, 15.7.4, 15.7.5, 15.7.6, 16.7.2, 16.7.3, and 16.7.4*

21. The proposed rules above apply to the Port Zone (chapter 13), Port Landing Area Zone (Chapter 14), Marina Zone (Chapter 15), and the Coastal Marine Zone (Chapter 16).
22. The set of 3 rules in each chapter are worded in an identical fashion, and in each case make the activities identified prohibited.
23. Rules 13.6.4, 14.5.4, 15.7.4 and 16.7.2 all prohibit discharge of untreated human sewage from a ship within 1000 m of MHWS from 6 June 2022.
24. Rules 13.6.5, 14.5.5, 15.7.5 and 16.7.3 all prohibit discharge of untreated human sewage from a ship within 1000 m of a Marine farm from 6 June 2022.
25. Rules 13.6.6, 14.5.6, 15.7.6 and 16.7.4 prohibit discharge of untreated human sewage into the coastal marine area.
26. The rules proposing to prohibit discharge of untreated sewage within 1000 m of MHWS or a Marine farm introduce a significant extension to the Resource Management (Marine Pollution) Regulations 1998 near shore limits. This extension throughout the region is not justified by any established regionwide adverse effects resulting from the discharge.

27. Rules 13.6.6, 14.5.6, 15.7.6 and 16.7.4 conflict with the other rules referenced – because discharge of untreated human sewage from a ship within 12 miles of the coast would breach these Rules, irrespective of whether the 1000 m clearance distance to MHWS or a Marine farm is complied with. In effect, Rules 13.6.6, 14.5.6, 15.7.6 and 16.7.4 override the other rules and require all ships to discharge untreated sewage outside the CMA.
28. Requiring ships, and in particular smaller recreational vessels, to travel a minimum of 12 nautical miles offshore to discharge untreated sewage, is not supported by or justified by any established regionwide adverse effects resulting from the discharge, and introduces significant potential health and safety risks particularly in more challenging weather conditions.
29. The section 32 reports prepared by the Council lack probative evidence to justify such rules. There is a lack of science or data to support the proposed rules. The section 32 reports also fail to properly address the costs and benefits of the proposed objectives, policies and rules with respect to the discharge of sewage from ships.
30. Any change to the distance or depth dimensions stated in the Marine Pollution Regulations is restricted to what the regulations permit – reference regulation 11 (3), (and in respect of the discharge of treated sewage, regulation 12 (2) and 12 A (2)).

### **Relief Sought**

YNZ seeks the following relief from Council (or other relief or other consequential amendments as considered appropriate or necessary to address the matters set out in the submission):

31. Amend Policy 13.9.6 by deleting subclause (a).
32. Amend policy 13.15.2 as follows:
  - Avoid, remedy or mitigate adverse effects on water transportation by:*
  - (a) avoiding activities and/or locating structures within Recognised Navigational Routes (both commercial and recreational) and/or port or harbour approaches (including navigation routes around headlands, and shipping routes from the Port of Picton, Havelock Harbour and from Waikawa Marina);*
  - (b) avoiding activities and/or locating structures within Recognised Anchorages of Refuge and Mooring Management Areas;*
  - (c) avoiding emissions of light that could affect the safe navigation of ships;*

- (d) ensuring the safety of navigation and use of or access to mooring sites, boat sheds and ramps, jetties, wharves, ports, marinas, and water ski access lanes are not affected by activities or structures in the coastal marine area; and*
- (e) requiring structures to be maintained or marked in a way that protects the safety of water transportation activities.*

33. Amend the Definitions (Chapter 25), by adding the following:

*Recognised Navigational Routes – is a safe sea passage and commonly used by ships navigating within that area. The recognised navigational route may be one used by commercial ships to and from ports, and may also include pleasure craft routes which are normally used to navigate between popular destinations.*

*Recognised Anchorages of Refuge – means an anchorage which is referred to in cruising guides, pilot books and similar publications as being suitable shelter for small/larger craft in adverse weather.*

34. Introduce a new objective following 15.1a to recognise the health and safety risks to vessels if required to discharge untreated sewage significant distances from Mean High Water Springs as follows:

*Protect the values of the CMA, and activities that rely on high water quality, from the adverse effects from the discharge of sewage from ships, while providing for the health and safety of ships and their occupants.*

35. Amend policy 15.1.18 as follows:

*Avoid the discharge of untreated human sewage from land to waterbodies or coastal waters.*

36. Amend policy 15.1.19 as follows:

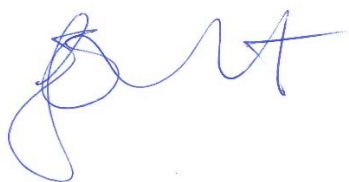
*Progressively work toward eliminating the discharge of human sewage from land to coastal waters in the Marlborough Sounds, with the exception of regionally significant infrastructure.*

37. Delete policy 15.1.20 and replace it with the following:

*Avoid the discharge of untreated sewage from ships within areas that have been identified as inappropriate due to the proximity to shore, marine farms, marine reserves, or shallow water depth while providing for the health and safety of vessels and their occupants.*

38. Delete rules 13.6.4, 13.6.5, 13.6.6, 14.5.4, 14.5.5, 14.5.6, 15.7.4, 15.7.5, 15.7.6, 16.7.2, 16.7.3, and 16.7.4 governing discharge of sewage from a vessel, and replace them with rules which:

- a. *provide for discharge of untreated sewage from a ship as a permitted activity provided it is:*
  - i. *more than 500 m (0.27 NM) from Mean High Water Springs; and*
  - ii. *greater than 5 m water depth; and*
  - iii. *more than 500 m (0.27 NM) from a marine farm, marine reserve or mataitai reserve.*
- b. *provide for discharge of Grade A sewage from a ship as a permitted activity provided it is:*
  - i. *more than 100 m (0.27 NM) from a marine farm.*
- c. *provide for discharge of Grade B sewage from a ship as a permitted activity provided it is:*
  - i. *more than 500 m (0.27 NM) from Mean High Water Springs; and*
  - ii. *more than 500 m (0.27 NM) from a marine farm, marine reserve or mataitai reserve.*



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**Yachting New Zealand Inc by its authorised agent**

**Jeremy Brabant**

1 September 2016

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