**Submission on proposed Marlborough Environment Plan**

**On behalf of the Port Underwood Association**

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This submission is made on behalf of The Port Underwood Association Incorporated (the Association) which is open to persons having a meaningful interest in Port Underwood. Membership consists of permanent and part-time residents, bach owners, forestry owners, commercial fishers and marine farm owners. Current membership is in excess of 120 with each typically representing a household or family group. Members rely on the Association to keep them informed of the developments in the Port Underwood area and to act on their behalf in matters which affect the area.

It is our belief that the development of the proposed Marlborough Environment Plan has received a tremendous amount of work in its development through the involvement and consultation with the Marlborough community and congratulate all of those involved in its development. As such, we believe that in general it accurately represents the opinions of the community. There are however several suggestions that we would like to put forward where we feel improvements or greater clarity can be achieved. Those suggestions are:

**Volume 1 Issues, Objectives and Policies**

We agree with all statements unless noted below. Recommended changes are in *italic*.

**4. Use of Natural and Physical Resources**

**Policy 4.1.1 – Recognise the rights of resource users by only intervening in the use of land**

**to protect the environment and wider public interests in the environment.**

*There may arise instances when activities carried out on private land create effects that carry beyond the property boundaries and adversely affect other people and environments. In such instances*

*~~At times~~* it may be necessary for wider public interest considerations to prevail over individual

expectations and land use may need to be controlled. In these circumstances, compensation to

the land user is not payable under Section 85 of the RMA. The same section also provides the

land user with the ability to challenge any provision of a plan on the grounds that the provision

would render their land incapable of reasonable use. Section 86 of the RMA empowers the

Council to acquire land with the agreement of the landowner and pay compensation for it.

Explanation: An addition of detail as to why public interest considerations should be accounted for.

**Policy 4.1.2 – Enable sustainable use of natural resources in the Marlborough environment.**

Many uses of coastal space, river beds, air and water resources are prohibited unless allowed by

a rule in a regional plan or by resource consent (see Sections 12 to 15 of the RMA). As a

principle, the Council will continue to enable access to natural resources where the subsequent

use of those resources has no more than minor adverse effect on the immediate or surrounding

environment. This will be achieved through the use of permitted activity rules, including

conditions where appropriate, avoiding the need for resource consent. Where the adverse effects

are considered more than minor or where there is potential for cumulative effects, then resource

consents will be required. Policies throughout the MEP help define sustainable resource use*. To ensure natural resource sustainability long-term resource consents (over 20 years) should not be granted in public spaces.*

Explanation: See explanation for policy 4.3.5

**Policy 4.3.5 – Recognise that the Marlborough Sounds is a dynamic environment.**

As described in the issue above, the Marlborough Sounds has already undergone considerable

change as a result of the past use of natural and physical resources, the most dramatic possibly

being the clearance of indigenous vegetation to allow agriculture to occur and, as agriculture has

become economically marginal, the regeneration of indigenous vegetation. As a principle, it is

important to recognise that the Marlborough Sounds environment is dynamic and will continue to

change with or without human intervention. This means there is a capacity to absorb change

within the environment without necessarily affecting the qualities of this unique and iconic

environment. Indeed, some changes may actually enhance the qualities and improve the

Marlborough Sounds environment. Regard should be had to this policy when considering new

and existing activities involving the use, development and protection of the Marlborough Sounds

environment*. And in recognition of this ability to change, there needs to be caution in assigning long term resource consents.*

Explanation: This recognises that with or without human intervention changes can take place that make resource consents inappropriate in the long term particularly in public spaces.

**7. Landscape**

**Policy 7.2.3 – Control activities that have the potential to degrade the amenity values that**

**contribute to those areas of the Marlborough Sounds Coastal Landscape not identified as**

**being an outstanding natural feature and landscape by:**

**(a) using a non-regulatory approach as the means of maintaining and enhancing**

**landscape values in areas of this landscape zoned as Coastal Living;**

**(b) setting standards/conditions that are consistent with the existing landscape**

**values and that will require greater assessment where proposed activities and**

**structures exceed those standards; and**

**(c) requiring resource consent for commercial forestry activities** *including re-establishment after harvest.*

Explanation: This discussion does not specify whether existing use rights apply to renewal of commercial forestry after harvest. Although there can be benefits from re-establishment of forest after harvest, there is also a potential for adverse effects, so it is appropriate that the positive and adverse effects are evaluated on a case-by-case basis.

**8. Indigenous Biodiversity**

**Issue 8A – A reduction in the extent and condition of indigenous**

**biodiversity in Marlborough.**

The condition and state of marine biodiversity can be affected by land or water based activities.

Adverse impacts can arise from sedimentation, contamination*, ~~and~~* habitat disturbance*, and changes in water flow.* Effects can be temporary, but in particular circumstances can result in permanent loss or damage. Long

term or cumulative smaller scale, localised effects from impacts such as contamination and

physical disturbance can also have significant effects on the functioning of marine *systems including nutrient, phytoplankton and zooplankton depletion.* Many

activities, such as recreational swimming, do not affect or have an impact on marine biodiversity;

however, other activities, including shipping (especially large and/or fast ships), reclamations or

other coastal structures, marine farming and physical disturbance from certain fishing techniques

can affect marine biodiversity.

Explanation: An expansion of the causes of adverse impacts.

**13. Use of the Coastal Environment**

**Fishing**

The waters of the Marlborough Sounds are important for fisheries for a number of reasons,

including:

* an ongoing source of traditional food for Marlborough’s tangata whenua iwi;
* *an on going source of food for full time and part time residents;*
* providing a livelihood for commercial fishers;
* being a significant factor in many recreational and tourism activities; and
* contributing to a range of species present in the Sounds and therefore the health of marine ecosystems.

Explanation: Recognition of the importance of the food source for other people and not just iwi, recreation and tourism.

**Policy 13.10.15 – Reduce the visual impact of jetties on the coastal environment by:**

**(f) avoiding locating lights on jetties (other than those required to facilitate**

**access*). Those lights that are necessary shall be fully shielded to prevent any light spillage above the horizontal plane of the light source;***

Explanation: This policy and others must recognize that the New Zealand Coastal Policy requires the preservation and protection of the natural darkness of the night sky. This can be accomplished with lighting fixtures that prevent any upward light spillage. These types of fixtures are becoming readily available at little to no extra costs.

**Policy 13.10.22 – The visual impact of boatsheds on the values of the coastal environment**

**will be reduced by:**

**(f) avoiding locating lights on boatsheds (other than those required to facilitate**

**access*). Those lights that are necessary shall be fully shielded to prevent any light spillage above the horizontal plane of the light source;* and**

**Policy 17.6.1 – Maintain amenity values in rural and urban areas by encouraging the use of**

**national and arterial routes by high volumes of traffic and heavy vehicles and discouraging**

**high volume and heavy traffic use of collector routes and local routes, particularly where**

**these pass through residential areas.**

The current state of vehicle technology in New Zealand means that noise and vehicle emissions

can be expected from the operation of vehicles on roads. There is little the MEP can do to modify

those conditions. However, the Council can control the extent of these effects by adopting a road

hierarchy, which encourages higher volumes of traffic and heavy traffic movements on certain

routes and discourages them on others. An exception is made for some primary production

activities, which need to use collector and local routes to transport produce to processing

*facilities provided that no viable alternative route or method of transport exists. The maintenance of community amenity values will take precedence over commercial financial considerations.*

Explanation: The policy envisages an exception to be made for some primary production activities, which need to use collector and local routes to transport produce to processing facilities. This provision should be subject to the caveat that no viable alternative route or method of transport exists. The fact that there is a financial incentive to use the public transport network instead of an otherwise viable alternative route or method should not trigger this exception.

ADD: On Page 17 - 14

***Policy 17.6.2.1*** *Establish a District wide plan of roads that are susceptible to the effects as listed in Policy 17.6.2 by heavy commercial vehicle usage and making the use of those roads a discretionary activity for heavy vehicles. Nominated roads could then be used by heavy vehicles subject to rules covering the following matters:*

***Length of vehicle over a certain length*** *- i.e. to reduce impact on road infrastructure; to reduce conflict with other road users.*

***Weight of vehicle over a certain weight*** *- i.e. to reduce impact on road infrastructure; to reduce conflict with other road users*

***Speed of vehicle****. – i.e. to reduce conflict with other road users; control generation of dust.*

***Time of use of the road during the day/night****. – i.e. to reduce conflict with other road users.*

***Season of the year for use of the road.*** *– i.e. to avoid dust nuisance over summer; to avoid times of high tourist usage.*

Explanation: It would mean that Council would have to evaluate all sections of its road network against the nominated criteria, and decide which roads would be subject to restricted discretionary control for heavy commercial vehicles. The degree of control would then be an incentive for operators to consider any alternative routes that were available. As Council completed upgrades on its road network the application of the restricted discretionary could be reviewed. This would also help quantify the economic justification for the road upgrade work and prioritisation of the works programme.

**Page 17-16 Transportation - Methods of Implementation**

ADD:

*17.M.10 [with subsequent renumbering as required]:*

*The Council will provide and maintain a website based mechanism for the receipt of traffic incident and safety related reports and complaints of impacts on amenity values arising from roads. These reports / complaints will be monitored and regularly collated for action as appropriate to enhance safety and efficiency of the road network and reduce adverse effects on the environment and community amenity values.*

Explanation: The anticipated environmental results rely upon monitoring reports of crashes, complaints received in relation to safety and complaints received from landowners about impacts on amenity values (noise, dust, vibration) from adjacent roads.

Not all traffic crashes or incidents are reported to the Police. Whilst the Council website has provision for a Cycle Crash or Near Miss Report there is no similar facility to report vehicular incidents that do not result in a Police report. Equally complaints relating to safety or impact on amenity values are received on an ad hoc basis. It is a reasonable conclusion therefore that in the absence of an effective reporting / complaint mechanism the incidence of traffic safety incidents or impact on amenity values is under reported and monitoring of the anticipated environmental result ineffective. The methods of implementation detailed at 17.M.6 to 17.M.14 make no reference as to how monitoring is to be conducted.

**Volume 2 Rules**

We agree with all statements unless noted below. Recommended changes are in *italic*.

There is no description of the non-complying category. Does it no longer exist?

**2.3.1. Take and use of water for an individual’s reasonable domestic needs up to 5m3 per**

**day per dwelling.**

2.3.1.2. The take is limited to one dwelling per take point except where multiple

dwellings exist on a single Computer Register or on contiguous Computer

Registers under the same ownership, in which case there may be up to

three dwellings per take point*. Where a number of properties have a common legal easement to a water take point the taking of water for reasonable domestic use shall be permitted.*

Explanation: The easement for the water take point would have been approved by Council under the original plan of subdivision and therefore permitted.

**7. Coastal Living Zone**

**7.2.3. Use of external lighting.**

7.2.3.1. Light spill onto an adjoining residential site must not exceed 2.5 Lux spill

(horizontal and vertical). *). All external lighting shall be fully shielded to prevent any light spillage above the horizontal plane of the light source.*

**8. Rural Living Zone**

**8.2.4. Use of external lighting.**

8.2.4.1. Light spill onto an adjoining residential site must not exceed 2.5 Lux spill

(horizontal and vertical). *All external lighting shall be fully shielded to prevent any light spillage above the horizontal plane of the light source.*

**13. Port Zone**

**13.2.5. Use of external lighting.**

13.2.5.3. All exterior lighting (except street lights) must be directed away from any

land zoned other than Port Zone and any road. ). *All external lighting (including street lights) shall be fully shielded to prevent any light spillage above the horizontal plane of the light source.*

**14. Port Landing Area Zone**

**14.2.4. Use of external lighting.**

14.2.4.3. All exterior lighting (except street lights) must be directed away from any

land zoned other than Port Landing Area Zone and any road. ). *All external lighting (including street lights) shall be fully shielded to prevent any light spillage above the horizontal plane of the light source.*

**16. Coastal Marine Zone**

**ADD:**

***16.2.8 Use of external lighting.***

***16.2.8.1.***  *All external lighting shall be fully shielded to prevent any light spillage above the horizontal plane of the light source.*

**Volume 3**

**Appendix 1**

We agree with all statements.

**Appendix 2**

We agree with all statements unless otherwise noted. Recommended changes in *italic*.

**Coastal Marine Areas**

**Page app2-5**

**Coastal Marine Area F: Port Underwood**

*~~There are no specific areas within Coastal Marine Area F with Outstanding, High or Very High Coastal~~*

*~~Natural Character values.~~ The Coastal Marine area F is rated moderate-high although it has not been surveyed at levels4/5 and high or very high sections may exist.*

Explanation: We propose that the Port Underwood area receive a closer inspection at levels 4/5 for a proper evaluation of the Coastal Marine Natural Character and the above description replaced with values as determined by the survey. Although Port Underwood is rated moderate high for natural character, we submit that there is significant variation in natural character within the Port and some portions of the internal coastline have High or possibly Very High natural character. Particular attention may be paid to the inside area around Robertson Point, the area around Horahora Kakahu, the Knobbies, and the western coast of Port Underwood from Oyster Bay southward.

**Page app 2-27 Coastal Marine districts**

PUA submission*: The boundary of* ***Coastal Marine Area G*** *in the vicinity of the mouth of Port Underwood should stretch from Robertson Point to Ocean Point (southern point of Ocean Bay) rather than to the northern end of Rangitane Bay as shown on the Coastal Natural Character overlay.*

Explanation: **Coastal Marine Area G:** Eastern Cook Strait and Outer Queen Charlotte Sound. Largely unmodified coastal marine environment extending over many tens of kilometres.  Very high rating.  We agree with this ranking but comment that the boundary across the approximate boundary of Port Underwood is in the wrong position. The boundary should stretch from Robertson Point to Ocean Point (southern point of Ocean Bay) rather than to the northern end of Rangitane Bay as shown on the Coastal Natural Character overlay. The entire exposed coast section between Ocean Point and White’s Bay is of a similar very exposed nature, and has the characteristics of Coastal Marine Area G such as exposed coast to very exposed coast, Diverse and productive reef communities with high macroalgae diversity, diverse seabird habitat including breeding colonies. There is no break in this natural character at Rangitane Bay, whereas Ocean Point marks a significant transition from the exposed coast to the more sheltered shallow bay environment typical of the Port Underwood coastline.

Our reasons will be expanded in the discussion on Maps in the following section.

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 As shown in Plan *Suggested modification*

**Appendix 22 Commercial Forestry Harvest Plan**

Add:

*10. The method and route to be used to convey forest development and maintenance equipment, and the transport of harvested logs from the boundary of the forest to the location of processing or disposal, including provisions for the protection of wider community amenity values and the integrity of the roading network.*

Explanation: The transport of various types of equipment and materials is an integral part of the harvest operation and the methods and routing to be used need to be appropriate. In order to ensure certainty and clarity any discretionary activity resource consent for the establishment of a commercial forestry shall encompass provision for transport of logs from the forest at harvest, including commensurate controls and conditions where required to protect amenity values and the roading network beyond the boundaries of the forest.

**Volume 4 Maps**

We agree with all maps except where noted.

***Various pages zoning***

Explanation: Members have raised concerns about the change in zoning, particularly from Rural 1 to Coastal Living, on some sections of land. We do not know enough at this time to make a definitive statement.

**Page 335 Coastal Natural Character Map 4**

Explanation: In the proposed MEP an area of coastline south of Ocean Bay is mapped as moderate-high for coastal natural character. We submit that this coastal area south of Ocean Bay should have a very high natural character rating in line with the remainder of the coast that runs further south to White’s Bay. The small section of coast south of Ocean Bay has been included in the Port Underwood area based on historical (and in our opinion, incorrect) broad scale district divisions. We submit that it is more appropriate to be included in the Eastern Cook Strait district.



Photo showing area in question and the similarity to the adjacent coast which is valued as very high for coastal natural character.

At its base level, coastal marine areas are governed to a great extent by the climatic and sea conditions that are prevalent in the area and are then modified by other factors. In the Port Underwood and southeastern Cook Strait coastline the climatic conditions are such that northeastern, eastern and southwestern weather have very minor effect on the coast. Westerly weather can bring rain but again has very minor effect on the coastline. The major impactors are northwesterlies, which can include northerlies, and southeasterlies. Southerlies will “bend around the corner” of the land mass further south and become southeasterlies. It is these combined southeasterlies that have the greatest influence on the coastline from Ocean Bay southward to White’s Bay.

These south and southeasterly climate events drive the strong sea conditions that have a significant southeasterly impact on the coastline. The fact that the direction of approach is from the southeast means that areas along the southeast coast near Ocean Bay that might be expected to be sheltered by Robertson Point do not have any sheltering and thus are in the same exposed setting as the rest of the Eastern Cook Strait coastline. This means that areas, such as just south of Ocean Bay, that might appear, by looking at a map, to be sheltered in a similar manner to the upper Port Underwood area, are instead exposed in a similar manner to the lower Cook Strait coastline.

Below we reference the work that the coastal natural character ratings in the MEP are based on - *Natural Character of the Marlborough Coast* produced by Boffa Miskell and also reference comments from one of the authors, James Bentley, in reply to some of our queries.

In regard to the derived rating of coastal natural character we refer to the communication from James Bentley of Boffa Miskell regarding the coastal natural character of the lower Eastern Cook Strait and Port Underwood areas in which he states:

*The next level of assessment was to identify at a more refined scale (Levels 4/5 – stretches of coastlines and individual bays – where possible) any particular parts of the Coastal Marine Areas that hold high or very high coastal natural character. As noted, for Eastern Cook Strait & Outer Queen Charlotte Sound Coastal Marine Area, most of the near-shore area is mapped very high. There was no mapping carried out for Port Underwood at this scale, although it is not to say that some parts of the marine unit of Port Underwood may be high or very high at a more refined scale.*

We submit that if a more refined mapping of what they considered to be the Port Underwood area would have taken place it would have been found that the area south of Ocean Bay would have the same classification as the lower Eastern Cook Strait coastline, i.e. very high. We detail our reasoning below.

Again quoting from James Bentley:

*Keeping with this broad scale, each Coastal Marine Area (and Coastal Terrestrial Area) is rated as a whole (at the Level 3 scale). Port Underwood is rated as Moderate-High as a whole. Eastern Cook Strait & Outer Queen Charlotte Sound Coastal Marine Area (adjacent to Port Underwood) is rated as very high as a whole. The difference in ratings comes down to the level of modification in the water. For Port Underwood, there are numerous marine-based modifications, including marine farms, some trawling, jetties and wharves. Adjacent forestry may also cause sedimentation issues. For Eastern Cook Strait & Outer Queen Charlotte Sound Coastal Marine Area the area is different, where are very limited or no modifications in the mapped marine area.*

And quoting from the *Natural Character of the Marlborough Coast* by Boffa Miskell*:*

*The influence of trawling will also vary depending on the resilience of the benthos. Coastal areas along South Marlborough’s east coast will be accustomed to natural seabed disturbance due to this region’s exposure to strong wave action and mobile sediments, which should make this area more resilient to trawling disturbance than more sheltered areas elsewhere in the region (e.g. Tasman Bay).*

*The influence of land-derived sedimentation on trophic/community structure and function* ***(Criterion 5)*** *varied within the assessment depending on the situation; … whether the marine environment was considered to be naturally resilient or sensitive to sedimentation effects. Relatively high sediment loads do not necessarily mean there are significant adverse effects as … the area may be naturally resilient to sedimentation (e.g. estuaries and the exposed shores of Marlborough’s east coast where wave action readily re-suspends and disperses sediment).*

Visually and from a layperson’s experiential usage the area south of Ocean Bay is very similar to the adjacent coast down to White’s Bay. The water modification factors, mentioned by James Bentley, that affect the differences in coastal character ratings such as marine farms, jetties, and wharves, do not exist in the area in question. Any trawling that takes place is significantly removed from the coastline and would have no effect on the inshore seabed, again similar to the adjacent coastline. Any sedimentation from forestry would be moderated by the sea action similar to the rest of the Eastern Cook Strait district. In fact, there is a nice tract of native bush located on the land just south of Ocean Bay.

There were no specific factors put forward by James Bentley that would drop this area in question from a very high coastal natural character rating and he sees no particular reasons that it could not be rate as high or very high. Again quoting James Bentley:

*This natural character study represents a regional-wide assessment and it was not possible to map each and every individual bay. Instead, material and information was used to map as best as possible the areas of high and very high natural character. So, whilst Ocean Bay isn’t specifically mapped, there is no reason why it couldn’t hold high or very high natural character ratings at a more refined scale.*

Sightings of Humpback and Southern Right whales have recently been made in the Port Underwood to Rarangi area in addition to numerous dolphins and Orca sighting including strong activity in the area close inshore just south of Ocean Bay.

We therefore submit that*: the Coastal Natural Character rating for the area just south of Ocean Bay should be Very High with the Key Values of:*

* *Large unmodified coastal marine environment in association with the coastal area reaching to White’s Bay;*
* *Semi exposed to very exposed and subject in some places to strong tidal currents;*
* *Diverse and productive reef communities with high macroalgae diversity;*
* *Large whale migration route and calving area.*

In summary, because of distinct differences we consider it wrong to group the area south of Ocean Bay in with the rest of Port Underwood which has a value for coastal natural character of moderate-high. We submit it has strong similarity to the adjacent coastline and should be grouped with the Eastern Cook Strait, which contains the adjacent coastline and is valued at very high.

Page 335 Coastal Natural Character Map 4

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 As shown in Plan *suggested modification*

***Various Pages – Marine Significant sites***

Explanation: It has been acknowledged that not all significant marine sites have been mapped. Should this be noted on the mapping index?

***Various pages – Steep Erosion Prone Land***

Explanation: We believe these maps are very large scale and do not include all areas that fall into this category or includes land that does not fall into the category. We would recommend a finer detailed study as this classification will affect land use. A statement that these maps are not finalized would serve until the mapping is accurate.

We wish to speak on this submission when the occasion arises.

On behalf of:

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