BEFORE THE TASMAN DISTRICT COUNCIL

UNDER The Resource Management Act 1991

AND

IN THE MATTER OF Applications by the Māpua Community Boat Ramp Trust for:

RM230253, land use consent to construct and use a boat ramp and to erect signage in the Open Space Zone, Recreation Zone and the Coastal Environment Area;

RM230388, land use consent for carparking in association with the boat ramp and a public parking area in the Residential Zone;

RM230254, land use consent under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS) for soil disturbance;

RM230255, land disturbance within the Coastal Environment Area for construction of the boat ramp and associated infrastructure;

RM230256, disturbance of the CMA in association with construction of the boat ramp;

RM230257, occupation of the CMA for the purpose of constructing and operating a boat ramp;

RM230258, discharge of sediment to the CMA during construction of the boat ramp; and

RM230259, discharge of stormwater into the CMA.

REPORT AND DECISION OF HEARING COMMISSIONERS

Bianca Sullivan & Graham Taylor

26 August 2025

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DECISION SUMMARY

It is our decision to REFUSE (DECLINE) the applications by the Māpua Community Boat Ramp Trust for the reasons set out in this report, which can be summarised as follows:

- the unacceptable and uncertain risks associated with construction of the ramp in an area with contaminated marine sediments; and
- the inappropriateness of the site for the ramp due to size, and safety concerns.

INTRODUCTION AND PROCEDURAL MATTERS

1. We have been jointly appointed by the Tasman District Council ('TDC' or 'the Council') under the Resource Management Act ('RMA' or 'the Act') to hear and decide consent applications lodged by the Māpua Community Boat Ramp Trust ('the Applicant' or 'the Trust') for the construction and operation of a boat ramp and associated infrastructure at Māpua.

2. The proposal is well documented in the AEE prepared by Davis Ogilvie and Partners, and in the Council's s.42A report prepared by Victoria Woodbridge and Leif Pigott. To summarise, the Trust proposes to construct and operate a two-lane boat ramp and associated infrastructure at the Māpua Waterfront Park Reserve (Waterfront Park), to the south of the Māpua Wharf. Access for boat launching would be from Tahi Street, with car and trailer parking provided for on the western side of Tahi Street.

3. The Trust was established in 2021 to co-ordinate resource consent applications for a replacement boat ramp at Waterfront Park, supported by funding from TDC. The proposed boat ramp would replace the single lane boat ramp to the north of the Māpua Wharf. Commercial development in the Māpua Wharf area essentially removed vehicle access to this boat ramp.

4. The applications were lodged on 27 April 2023. Processing was suspended under s.91 of the RMA until an additional consent application was lodged for car parking. This was received on 22 June 2023. A detailed and wide-ranging request for further information was requested under s.92 of the RMA on 31 August 2023. This resulted in a more comprehensive Assessment of Environmental Effects (AEE) being provided on 14 December 2023. This revised AEE was prepared by Davis Ogilvie Limited and is dated 16 November 2023. It includes numerous technical reports and superseded the previous application document.

5. The Applicant requested public notification under s.95A(3)(a) of the RMA and the applications were publicly notified on 24 January 2024. The submission period closed on 26 February 2024. Notice was served on numerous parties, which are listed in paragraph 5.2 of the s.42A report.

6. The proposal has been amended as the consenting process has progressed, in response to both submissions and further advice from the Trust's technical experts. For example, the application originally also sought a land use consent to construct a 20 m by 40 m building to be used by the Tamaha Sea Scouts and community groups. This aspect of the proposal was withdrawn following the close of submissions.

7. The s.42A report, prepared by Ms Victoria Woodbridge and Mr Leif Piggot, was pre-circulated to the parties prior to the hearing in accordance with section 103B of the Act, as was the submitters' evidence and the applicant's evidence. All pre-circulated material was read by the Panel prior to the hearing and was taken as read at the hearing.

8. The hearing commenced at 9.30 am on Monday 25 November 2024 in Tasman District Council's Council Chamber. The hearing continued on Tuesday 26 November and was adjourned on Wednesday 27 November after hearing from the Applicant and submitters.

9. We issued a Minute on 27 November directing conferencing and the provision of a Joint Witness Statement (JWS) from the traffic experts, requesting clarification of the status of the Trust, and providing guidance to the Council officers on the matters that we wished them to cover.

10. The hearing was reconvened on Monday 9 December 2024 at 12 noon at the Headingly Centre in Richmond. We questioned the traffic experts on the pre-circulated JWS and heard from the Council officers.

11. On Tuesday 10 December 2024 we heard further submissions from Ms Renee Love from Te Atiawa Trust in a closed meeting. We then issued Minute 3 directing that additional information be provided by the Applicant. The Applicant provided much of this information on 31 January 2025, however we were not satisfied that additional sampling undertaken to characterise the marine sediments in the construction area adequately addressed our request. We issued Minute 4 to this effect on 12 February 2025 and further information was provided on 15 April 2025. Our Minutes 5 and 6 resulted in comments being sought from parties on the further information provided by the Applicant, and directions for caucusing of the contaminated site experts.

12. We determined that no further information was required and the Applicant was invited to provide a right-of-reply by 16 June 2025. Immediately prior to this, we received the latest foreshore monitoring results from the Council and determined through Minute 8 that it was appropriate for the contaminated site experts to be given the opportunity to comment on this new information. This was provided by 24 July 2025.

13. Counsel for the Applicant, Mr McFadden, provided a written right of reply, accompanied by an updated set of proposed consent conditions, on Friday 27 June. The hearing was closed on 17 July 2025.

14. We visited the site and surrounds near high tide on the evening of 25 November 2024 and near low tide on the morning of Monday 9 December 2024.

THE APPLICATION

15. The application is detailed in the AEE and further information response, and is summarised in the section 42A report and in the applicant's evidence. A summary of the proposal is provided below.

16. The Trust seeks to build and operate a 49 m long and 11 m wide concrete boat ramp at the southern end of Waterfront Park. Access to the boat ramp will be via Tahi Street and Waterfront Park, with the boat ramp sloping into the Coastal Marine Area (CMA) at a 1:8 gradient. A 5 m long rock reno mattress would be constructed off the end of the boat ramp, and a safety line of buoys is proposed between the south east corner of the Māpua wharf and the waterfront edge to 'catch' drifting boats on an outgoing tide.

17. Car and trailer parking is proposed for Kite Park, to the west of Tahi Street. The parking layout, boat ramp access and operation was varied following caucusing of traffic experts, with 65 car and trailer parks proposed for summer operation and an all-weather surface for winter parking of four trailers. Access to the boat ramp will be via an access lane from Tahi Street with a barrier arm. The existing parking area in Waterfront Park will be modified to provide for the access lane.

18. Signage will be placed at key locations to direct and inform boat ramp users and pedestrians.

19. Acoustic fencing at least 1.8 m high will be constructed at the boundary of 13, 18, 20 and 20B Tahi Street. Landscape plantings will be undertaken along the northern boundary of the boat ramp access with Waterfront Park, and a vegetated stormwater swale will be maintained to the south.

20. A TDC pressure main crosses the site in the CMA carrying wastewater from the Māpua area to the wastewater treatment plant. The applicant proposes excavation works to reroute the pipework around the proposed boat ramp structure.

21. Various management plans are proposed to mitigate and manage the effects of the construction and operation of the boat ramp and parking facilities. These include a noise management plan, a traffic management plan, a landscape and planting plan, a construction management plan, and a lizard management plan.

22. The following consents are applied for:

RM230253	Land use consent to construct and use a boat ramp and to erect signage in the Open Space Zone, Recreation Zone and the Coastal Environment Area.
RM230388	Land use consent for carparking in association with the boat ramp and a public parking area in the Residential Zone.
RM230254	Land use consent under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS) for soil disturbance.
RM230255	Land disturbance within the Coastal Environment Area for construction of the boat ramp and associated infrastructure.
RM230256	Disturbance of the CMA in association with construction of the boat ramp.
RM230257	Occupation of the CMA for the purpose of constructing and operating a boat ramp.
RM230258	Discharge of sediment to the CMA during construction of the boat ramp.
RM230259	Discharge of stormwater into the CMA.

23. Ms Gepp, counsel for Friends of Māpua Waterfront, considered that a consent was also required for a reclamation as parts of the boat ramp will form permanent dry land. Mr McFadden addressed this in his right-of-reply for the applicant. He stated that what is proposed is a boat ramp and to achieve that requires some filling and building up. The intention is not to create land. We agree with Mr McFadden that the boat ramp should not be treated as a reclamation, and consider that there is a distinction between a boat ramp and a reclamation.

SUBMISSIONS

24. The Council received 329 submissions, of which two were withdrawn prior to the hearing. Of the 327 remaining, 211 were in support of the proposal, six were neutral and 110 opposed. Fifty submitters were heard, as listed in Appendix 2. Several submitters grouped together as the Friends of Māpua Waterfront, as shown in the list of submitter appearances in Appendix 2.

25. Due to the large number of submissions, we do not summarise each submission but refer to the summary from paragraphs 5.9 to 5.35 of the s42A report, and the full summary of submissions in Attachment 5 of the s.42A report.

26. The key issues and matters raised in submissions are summarised below:

- Natural character, visual and amenity effects, including the scale of the boat ramp, noise from cars and launching boats, the loss of existing native trees in Waterfront Park, and the loss of natural character values along the coastline.
- Safety issues, including potential conflict with wharf jumpers, dangers of launching boats and queuing in tidal currents, and loss of safe beach access.
- Traffic effects, including increased traffic congestion and shortage of parking spaces, particularly in summer.
- Recreation effects, including positive effects through providing opportunities for boating, and negative effects on other water users (for example, swimmers and kayakers).
- Effects on contaminated land, including the risks of contaminated sediment entering the estuary and marine food chain, and the disturbance of contaminated land posing risks to human health.
- Ecological effects, including effects on the lizard population in Waterfront Park, the birds that use Kite Park, and the wider estuary environment.
- Effects on reserve land, including loss of public reserve land, and support for utilising reserve land for a public good.

27. A wide range of matters were raised in submissions, some of which are either outside the scope of this application or can only be given limited weight. An example of this is the submissions that discussed boat launching at Grossi Point Recreation Reserve (Grossi Point), which is located at the southern end of Tahi Street. Some submitters supported the proposed boat ramp as they considered that it would reduce boat launching at Grossi Point. Other submitters who opposed the proposed boat ramp considered that Grossi Point is adequate for boat launching and that another boat launching facility is not needed.

28. Grossi Point is managed by the Council and is an informal place to launch and retrieve boats. While we acknowledge the tension between different recreational users at Grossi Point, the application before us is from the Trust for a boat ramp at Waterfront Park. We agree with Ms Woodridge and Mr Pigott that the applicant has no control over the use of Grossi Point and that it is difficult to determine what the effects of the proposed ramp would be on boat launching at Grossi Point.

CONSIDERING THE APPLICATION

29. We have considered all relevant documentation that applies to these applications for the purposes of our assessment in the following sections, and for our final decision. This includes the application, AEE and subsequent further information, the submissions, the section 42A report, the submitters' statements, the joint witness statements from the traffic and contaminated sites experts, and the applicant's right of reply.

Status of the application

30. The Tasman Resource Management Plan (TRMP) applies to activities both above and below mean high water springs (MHWS). The zonings in the TRMP are relevant to the activity status and are as follows:

    - Residential Zone for the area of Kite Park that is proposed for trailer parking. This is on the western side of Tahi Street.
    - Recreation Zone for Waterfront Park, which includes the boat ramp access area from Tahi Street to the top of the boat ramp.
    - Open Space Zone for the narrow strip of land between MHWS and the Recreation Zone. The boat ramp will traverse this zone.

31. The affected area that is below MHWS is listed as Coastal Marine Area. A portion of the boat ramp will be in the CMA, with accompanying construction and occupation, and stormwater from the ramp will discharge into the CMA. Other relevant overlay areas are Land Disturbance Area 1, Māpua Special Development Area, Cultural Heritage Precinct and archaeological site N27-087, Coastal Environment Area, and Coastal Tasman Design Guide Area.

32. An area immediately to the north of Kite Park and Waterfront Park, along the Aranui Road frontage, is Commercial Zone, while the area immediately to the south is Residential Coastal Zone.

33. There was agreement on the rule classification of the proposed activities between the Applicant's planner, Mr Morris, and the s.42A officers, Ms Woodridge and Mr Pigott. No planning evidence was brought by submitters and no information was provided to challenge the rule classification and activity status. Paragraph 4.3 of the s.42A report provides the rule classification for each activity and we adopt this for our decision.

34. Mr Morris did not provide any detail of the rule classification in his evidence, rather saying that he agreed with Ms Woodridge that the overall status of the activity is discretionary. We consider that the applications are inextricably linked and agree that the applications should be bundled together with the most restrictive activity status applied – in this case, discretionary.

Statutory considerations

35. Section 104 of the RMA guides consideration of consent applications. Section 104(1) lists the matters that we must have regard to in considering the application, stating that:

> *When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to–*
>
> *(a) any actual and potential effects on the environment of allowing the activity; and*
>
> *(ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
>
> *(b) any relevant provisions of—*
>
> *(i) a national environmental standard:*
>
> *(ii) other regulations:*

(iii) a national policy statement:

(iv) a New Zealand coastal policy statement:

(v) a regional policy statement or proposed regional policy statement:

(vi) a plan or proposed plan; and

(c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

36. Section 104B of the RMA states that we can grant or refuse an application that is a discretionary activity and, if granted, may impose conditions under section 108.

37. There are no restricted coastal activities under the New Zealand Coastal Policy Statement (NZCPS).

38. Sections 104 and 104B of the RMA are considered in turn below.

SECTION 104(1)(a) – ACTUAL AND POTENTIAL EFFECTS ON THE ENVIRONMENT

The existing environment

39. The site is described in section 3 of the s.42A report and in sections 2.2 and 2.3 of the AEE. The boat ramp is proposed to be located at the southern end of Māpua's Waterfront Park, a non-classified public reserve east of Tahi Street and south of Aranui Road. This area currently contains a metalled car park, toilet block, pedestrian walkways, and a pétanque court, with landscaped areas and seating. The site is generally flat to gently contoured and is directly adjacent to the CMA and immediately south of Māpua's commercial waterfront area.

40. Car and trailer parking is proposed for the west of Tahi Street on an area known as Kite Park. This land is flat and is zoned residential. It provides overflow car-parking during busy periods, particularly in the summer.

41. The site is adjacent to the western entrance to the Waimea Inlet, a shallow, bar-built estuary which is one of the largest inlets in New Zealand. Rabbit Island forms a barrier between the Waimea Inlet and Tasman Bay, with openings at each end of the island. The Inlet has a spring tidal range of 3.7 m, resulting in fast tidal flows.

42. Waimea Inlet is listed in Schedule 25D of the TRMP as an area with nationally significant natural ecosystem values, and has been assessed by the Department of Conservation as meeting the criterial for a wetland of international significance. It supports a number of endangered plant and animal species, including the peppercress plant, grey-faced petrel, white heron, Australasian bittern and banded rail.

43. Waimea Inlet is also popular for recreation pursuits, including power and non-powered boating, swimming and jumping from the Māpua Wharf. A ferry carries cyclists and pedestrians between the Māpua Wharf and Rabbit Island, connecting parts of Tasman's Great Taste Trail.

44. The Kite Park and Waterfront Park area is the former site of the Fruitgrowers' Chemical Company (FCC), which manufactured herbicides and pesticides there between approximately 1932 and 1988. These included organochlorine pesticides (OCPs) such as DDT, DDD and dieldrin as well as 80 other different pesticides. The evidence of Mr Gareth Oddy for the Applicant, and Ms Jenny Easton, a submitter and expert for Friends of Māpua Waterfront, has been helpful in

providing background of the previous land use and site remediation and management. Ms Easton was employed by TDC as a Resource Scientist from 1995 to 2012 and worked on the site's remediation. Ms Easton directed us to a Ministry for the Environment publication[1], which provided useful background to the site's history.

45. The site's landfill was located on the western side of Kite Park. Extensive contamination of the land, groundwater and estuary resulted from FCC operations, and the land now known as Waterfront Park and Kite Park was subject to a large remediation project over several years, funded by the then Government with contribution from TDC. This was completed in 2008. Kite Park was remediated to meet residential site acceptance criteria (SAC), while the higher contamination material (up to 200 parts per million DDX[2]) was contained in Waterfront Park in a series of cells protected by crushed concrete with a clay bund abutting the coastal sea wall. While the intent of this was to prevent further contamination of groundwater and the adjacent estuary, groundwater monitoring shows continuing contamination. The marine sediments were not remediated.

46. The site's management is subject to the FCC Site Management Plan, administered by TDC, which required ongoing monitoring of the site and surrounds. A condition of the Government's remediation funding was that at least 40% of the former FCC site would remain as public land. This was achieved through Waterfront Park.

47. We consider the Waterfront Park and the adjacent CMA are particularly sensitive receiving environments, given the site's previous and current contamination, and the high ecological and recreational values of the Waimea Inlet.

Considering the effects

48. This application seeks a suite of land use consents under s.9 of the RMA, two coastal permits under s.12 of the RMA, and two discharge permits under s.15 of the RMA. In considering the effects of the proposed activity, we have grouped them under the following headings:

- Open space and recreational values of Waterfront and Kite Parks
- Landscape and natural character values of coastal area and CMA Traffic and parking
- Noise
- Navigation and safety
- Land and foreshore contamination
- Wildlife
- Cultural values
- Positive effects

<u>Effects on open space and recreational values of Waterfront and Kite Parks</u>

49. We heard from several submitters concerned with effects on open space and recreation values attributed to the Waterfront Park and Kite Park. This formed a significant part of the case presented by the Friends of Māpua Waterfront group, supported by evidence from Jenn Benden, an open space and recreation planning expert.

[1] Ministry for the Environment. 2011. Cleaning up Māpua: The story of the Fruitgrowers' Chemical Company site. Wellington: Ministry for the Environment.
[2] DDX is the collective expression for the organochlorine pesticides DDT, DDD and DDE

50. Several submitters spoke of the importance of the Waterfront Park to the local community, and the efforts that had gone into securing the park for the community following the site remediation. We acknowledge the value that the local community places on the Park and the facilities that it offers.

51. This also extends to Kite Park – it is presently used for community purposes, including recreation use, and use for overflow parking for the adjacent commercial precinct and for community fairs and events.

Māpua Waterfront Park

52. We note that the Māpua Waterfront Park itself is not held or classified under the Reserves Act 1977, however it is included in the Moutere-Waimea Ward Reserve Management Plan (**RMP**) as adopted by the Council in June 2022. This has a bearing on the application of relevant rules in the TRMP and the status of activities under the RMA.

53. The 2017 Māpua Waterfront Area Masterplan references a potential boat ramp at Waterfront Park, and records strong division amongst the community. It records that Council decided not to support a new ramp at that time for a combination of reasons. Its preferred option was to take a long-term view and a more regional and strategic approach for the whole district, including provision for a demand study, and allocating budget through the annual plan process for a feasibility study and boat ramp construction. Our reading of this was that although the Masterplan does not provide for a ramp, it left the 'door open' for future consideration.

54. The Masterplan is not a statutory document, and we consider it has been partially superseded by the RMP, therefore we consider it should be accorded limited weight as an 'other matter' under s104(1)(c) to the RMA. The RMP is a more recent document prepared under the Reserves Act 1977, which we consider carries more weight than the Masterplan, particularly due to the connection to the TRMP Recreation and Open Space zone rules which ascribe permitted activity status to activities carried out in accordance with a Reserve Management Plan.

55. Whilst the Māpua Waterfront Park is not actually a classified reserve under the Act, it is included in Section 5.7.29 of the RMP. The RMP includes discussion on page 121 as to a potential boat ramp, and identifies several related issues including community division, the need to manage the contaminated site including estuary sediment, the need for any ramp to be built over the cap and extend out over the beach, and management of vehicle movements and parking. It then records Council approval of funding for the purpose of a new ramp and includes policies to provide for the option of construction of a ramp subject to all requirements and processes being met.

56. Policy 1 is to manage the park as an open space for informal recreation and potentially boat launching.

57. Policy 6 deals specifically with the potential boat ramp and states:

Provided all relevant processes are completed and all required authorisations are obtained, allow for a community boat ramp to be constructed at Waterfront Park. Use of the boat ramp should be managed to ensure that:

i. no contaminants from the land are exposed or able to leach into the coastal environment;

ii. vehicle movements to and from the boat ramp minimise impacts on the open space values of Waterfront Park and other users; and

iii. *parking for vehicles with boat trailers does not encroach on the open space areas of Waterfront Park and is provided for elsewhere.*

58. The matters listed in (i) – (iii) are all matters concerning technical aspects of ramp engineering design and management, and do not otherwise turn on the question of whether or not a ramp should be allowed. The wording of the policy is to 'allow' a ramp subject to the necessary processes and authorisations. Our observation is that in including the policy, the Council in its capacity as owner and administrator of the land on behalf of the community, has already determined that a boat ramp is allowed in this location in terms of the RMP.

59. The implication of including this in the RMP is that under the TRMP, a boat ramp at Māpua Waterfront Park is a permitted activity within both the Recreation and Open Space zones, subject to compliance with other rules. In this case non compliances arise with noise, stormwater and setback rules, however the fact remains that on face value a boat ramp in this location is permitted under the TRMP. That is part of the planning framework which we are required to consider the application under.

60. Accordingly, despite opposition from some parts of the community to the effects and loss of open space and recreation opportunity within parts of the Waterfront Park, we must accept that the Council has already determined through the RMP and the TRMP zoning and rules that a boat ramp is permitted. It is not our role as a panel, nor are we empowered to relitigate or change those decisions which lie within the functions of the Council as the landowner and administrator of the Waterfront Park land on behalf of the community.

61. This means that change to the open space and recreation values of the reserve by the inclusion of a potential boat ramp has already been considered by the Council in undertaking its functions as landowner. They are already anticipated by the RMP and TRMP provisions and must therefore form part of the anticipated environment under which we are to consider the application. We also note that the northwest corner of the Park has a commercial zoning, therefore future development there will also flavour the open space and recreation values of the Park. We also note that boating itself is a recreation activity.

62. For these reasons we find that effects on open space and recreation values of Waterfront Park through the placement of a boat ramp are anticipated by the TRMP provisions, and to that extent such effects on face value must be considered acceptable from an RMA context.

Kite Park

63. Kite Park is not classified as a reserve. It is held by the Council and has multiple zonings. The northern portion fronting Aranui Road is zoned Commercial. The area in which vehicle and trailer parking and queuing is proposed is contained within the Residential and Residential Coastal zones.

64. The land is presently maintained as grassed open space and is used for a variety of community and informal recreational activities including walking, cycling, dog exercising, kite flying, ball games, and overflow parking for the Wharf commercial precinct during summer months and during events such as the Easter Fair.

65. However, the current open space and recreation values of the land must be considered in the context of the environment and uses anticipated by the TRMP zoning. The zoning anticipates

that future use will be for a combination of commercial and residential developments. In this respect, the present open space and recreation uses and values must be regarded as an interim situation and not as a long-term value that the TRMP seeks to preserve, and that the community could reasonably therefore expect to be maintained.

66. We also note that the use of some of Kite Park for trailer parking will not cover the whole of the site, nor will it preclude the use of those parts of Kite Park used for ramp parking for existing informal recreation at all times, particularly outside of the peak summer boating period, and in late afternoons and evenings when boating activity will be significantly reduced.

67. For the above reasons we find that the effect of the use of part of Kite Park on open space and recreational values as anticipated by the TRMP will be minor.

Effects on landscape and natural character values of coastal area and CMA

68. We heard evidence from several submitters attesting to the degree of natural character, landscape and visual amenity values that they attributed to the Wharf and Waterfront Park areas. Expert evidence on landscape values was also provided by Mr Langbridge and Ms Gavin.

69. Several submitters spoke of their appreciation of the landscape values of the area, which has a high use by locals and visitors for walking and sitting and appreciating the views over and towards the Waimea Inlet and Rabbit Island. They viewed inlet views from the Wharf, amphitheatre seating and the small viewing platform as being locally significant and contributing to their appreciation and enjoyment of the Waterfront Park and foreshore area. The area is also occasionally used by the community for events. We were presented with photographs and videos attesting to the views enjoyed by people visiting the foreshore area.

70. Ms Gepp also submitted that high natural character values exist which would be adversely affected with reference to Policy 13(b) of the NZCPS.

71. We acknowledge that appreciation of landscape and visual amenity values is a subjective and personal matter. Our task is to balance those views under the statutory RMA framework having regard to the existing environment and that which may be anticipated under the TRMP and NZCPS provisions.

72. Given our findings above as to effects on open space and recreation values of the Waterfront Park and Kite Park, we consider that the landward parts of Waterfront Park and Kite Park where the majority of the ramp access and parking areas are proposed to be located do not exhibit high degrees of natural character or landscape values that would be adversely affected by the proposal. They are already highly modified areas that contain structures including buildings and utilities, pétanque court, amphitheatre, paths and landscaping, a car parking area, and some areas are zoned for commercial and residential use. Under the present residential, recreation and commercial zonings, a variety of potential developments with differing degrees of visual impact may occur. The existing built environment of Waterfront Park could be modified further at any time with new structures and equipment by the Council in accordance with the recreation zone provisions.

73. Our focus is therefore on the natural character and landscape values present and experienced from and across the open space zoned and coastal foreshore areas, and how they might be impacted by the boat ramp structures and launching activity. We have considered this in terms of the relevant rules and policy framework of the TRMP and NZCPS.

74. Mr Langbridge provided evidence in chief for the applicant, as well as a summary statement and rebuttal which was tabled and spoken to at the hearing. He described the site as being highly modified via the rehabilitation process of the contaminated site, and the influence of activities and structures on the site and surrounding environment. The coastal precinct within the site includes the amphitheatre, coastal promenade, viewing platform and rock armouring. Nearby activities include the wharf and commercial buildings to the north, and residential development extending to the foreshore to the south. He described the character and amenity values of this precinct as being strongly coastal and providing a valued opportunity to interact with and enjoy the amenity of the wider estuary, its activities and the extensive and valued natural environment of the Waimea inlet.

75. He considered the greatest visual effect will stem from the boat ramp at low tide and when viewed from locations inside and adjacent to the CMA due to the limited ability that exists to visually mitigate the visual impact. The new ramp will alter the landscape values of the coastal precinct, but he considered the change should not be considered wholly adverse. The adverse effects will be offset to some degree by the appropriateness that a boat ramp has to this context.

76. The short-term effect of change will be moderate to high; however a boat ramp will not be unexpected, and he considered this fact will enable the new structure and associated activities to assimilate with the landscape.

77. Mr Langbridge considered the proposed ramp to be consistent with Policy 6 of the NZCPS.

78. In relation to Policy 13 he considered that whilst the Waimea Estuary as a whole is considered to be locally outstanding, it includes a wide variety of environments including highly modified ones, and that local effects on natural character of the coastal environment in this location and context would be low.

79. He did not consider that the proposal would adversely impact on the wider outstanding feature and landscape values of the Waimea Estuary in terms of Policy 15.

80. Mr Langbridge considered that the landscape and natural character effects of the proposed ramp within the CMA would be low and referred to relevant assessment matters contained in discretionary activity rule 25.1.2.3 of the TRMP concerning structures relating to craft in the CMA.

81. Ms Gavin provided a peer review of Mr Langbridge's landscape assessment which was included with the TDC s42A report, and she answered questions at the hearing. Her assessment was carried out prior to some amendments to the proposal including a proposed floating barrier adjacent to the wharf. We also note that it identified some gaps in the assessment concerning effects from the boat ramp on the natural character and amenity values of the Coastal Environment Area. Some of these issues were subsequently addressed in the rebuttal evidence provided by Mr Langbridge at the hearing as discussed above. However, Ms Gavin still considered that effects on natural character remained unclear. This included lack of assessment of effects on lizard habitat and ecological effects due to disturbance of contaminated materials. These contribute to natural character values. We discuss these separately in this decision.

82. Ms Gavin also identified what she considered to be gaps in terms of assessment of past cultural and historic associative values that relate to mana whenua and other iwi outlined in submissions.

83. She agreed with Mr Langbridge that visual effects of the physical change associated with the boat ramp are largely restricted to the Waterfront Park and the foreshore/ coastal area. She considered that effects on landscape values would be moderate to high but that the impact of this change will soften over time as the change in use becomes established, as long as there is no ongoing conflict between amenity users (i.e. between the active recreational use of the wharf as a place to jump into the sea, the pedestrian access to and along the foreshore for exploration and the potential tension between increased boat activity which may impact on landscape amenity values of some users). Overall, she considered adverse effects on landscape value to be moderate.

84. She considered there to be low adverse effects on terrestrial natural character, and low-moderate adverse effects on marine natural character due to changes to tidal patterns and processes, the perceived naturalness of the shoreline, and the loss of marine benthic habitat in the area occupied by the boat ramp.

85. However, she also considered that the adverse visual impact and effects on natural character of the ramp structure within the CMA would be significant and had still not been adequately addressed by the applicant.

86. In answer to questions Ms Gavin confirmed that she has reservations as to the size and extent of the ramp structure, being a double lane ramp, and due to the height and length of the ramp extending into the estuary. This is necessitated by the site contamination, meaning that the ramp cannot be dug into the site, and must instead extend out, making it more intrusive than would otherwise be expected.

87. Whilst the TRMP provides for structures including launching ramps as a discretionary activity within 100m of Māpua Wharf, there is still a wide range of assessment matters to consider including the scale and effects of the structure. Ms Gavin considered that the adverse effects within the CMA outweighed the granting of consent and would be contrary to Policy 6 of the NZCPS.

88. We have considered the expert evidence presented by Mr Langbridge and Ms Gavin, as well as the lay evidence provided by several submitters, which attested to their individual and sometimes differing appreciations of the landscape and natural character values of the coastal foreshore areas of the site and surrounding environment.

89. We do not consider that the boat ramp would have a significant adverse effect on the enjoyment of overall views of the Waimea Inlet beyond those from the immediate site. There are broad ranging coastal views extending from the mouth, across Rabbit Island and over the inlet towards the Richmond Ranges and including moored boats and birdlife. However, such views are also attained from several vantage points around the Inlet, including from the adjacent Wharf, and from the beachfront extending to Grossi Point. Whilst immediate foreground views from the Waterfront Park edge and viewing platform might be affected, similar unimpeded views will remain elsewhere. The adverse effects on landscape views of Waimea Inlet will therefore be localised. In this respect we agree that the proposal is not contrary to Policy 15 of the NZCPS concerning natural features and landscapes.

90. We agree that the landward part of the Waterfront Park coastal fringe is already highly modified, with rock protection works, the paved amphitheatre and stormwater works. The adjacent land including the Māpua Wharf and buildings to the north, and residential development to the south is also a developed and highly modified environment. We therefore agree that the

existing landscape values of the landward area are not highly natural, and that there is a capacity for change. We agree with Mr Langbridge that a boat ramp structure would not be unexpected in this location.

91. Mr Langbridge's opinion is also partially supported by the TRMP status of the ramp within the Recreation zone and the fact that the TRMP rules provide for boat ramp structures in the CMA within 100m of Māpua Wharf as a discretionary activity. It is therefore reasonable to expect that applications may be made for structures in this location and considered on their merits. However, we do not take this to mean that all structures in this location will be appropriate.

92. We do have significant reservations as to the scale and adverse effect of the parts of the ramp structure in and over the CMA on landscape and natural character values, and share the concerns expressed by Ms Gavin in this regard. The assessment matters for discretionary activities contained in rule 25.1.2.3 of the TRMP direct us to consider amongst other things, the scale of the structure, effects on the natural character of the coastal environment, effects of the existence and use of the structure on landscape and seascape values and visual amenity, public access, coastal processes, amenity values of the locality, construction effects, and the risk of material or contaminants moving or leaching from the structure into any part of the coastal marine area.

93. We agree that in terms of Policy 6(2)(c) of the NZCPS, boat ramps have a functional need to be located within the CMA – however we also note that the policy goes on to add that such activities be provided for in *appropriate* places. We do not necessarily take this to mean that all boat ramps are appropriate. This requires a wider consideration.

94. We agree that the Māpua Waterfront Park and Wharf precinct are a modified environment, in which the TRMP anticipates that an activity such as a boat ramp may be located. The naturalness of the coastal environment is already compromised to a degree by these features, and we find it has some capacity for change. On face value this may be seen to be consistent with Policy 6(1)(f) in that the character of the existing built environment may be maintained.

95. However we are concerned that a functional need has not been established for a ramp within the CMA of the scale being proposed. Whilst the RMP includes support for a ramp, and there is an expectation of those supporting the ramp that the former community ramp might be replaced, we also note that the former ramp is a much smaller single lane structure. The proposed ramp is more than a replacement for what was lost. We are not convinced that a larger double lane ramp is necessary to meet local needs, therefore have reservations as to whether a functional need has been established to construct a ramp of the size proposed.

96. This concern is exacerbated by the site contamination, and the resultant need to construct the ramp over the existing cap and out into the estuary by over 40m, and at a significant height at the landward end. The scale and adverse visual effect of the ramp within the CMA is greater than would occur on an uncontaminated site. We have also concluded that the construction and use of the ramp on the contaminated site presents an unacceptable risk due to potential mobilization of contaminants contained in marine sediments. This makes the site inappropriate.

97. For the above reasons, we do not consider that the site is an "appropriate place" for the proposed ramp in terms of Policy 6(2)(c) of the NZCPS. The adverse effect on natural character due to potential disturbance of contaminated marine sediments is also likely contrary to Policy 13.

98. Our finding is that the adverse effect of the ramp structure on the landscape and natural character values of the coastal environment will be more than minor.

Effects of traffic and parking

99. Traffic related concerns were raised by several submitters. Common matters raised included the effects of increased traffic including ramp users from outside the local area with large towing vehicles traveling to and from the site via Aranui Street, localised effects of traffic and trailer queuing on Tahi Street, and the operation and effects of the parking and ramp queuing areas. Submitters expressed a concern that the provision of what they saw as a large 'regional' sized ramp would attract significantly more users and traffic than a local community ramp.

100. We heard expert traffic engineering evidence from Mr Clark for the applicant, and received s42A peer review evidence prepared by Mr Rossiter, a consultant traffic engineer. Mr Rossiter's evidence was presented by Damian Ford due to Mr Rossiter being unavailable. We also heard traffic evidence from a submitter, Ari Fon. Mr Fon is a traffic engineer with experience in the Tasman region, however presented in his capacity as a submitter. He acknowledged the limitations inherent in presenting expert evidence as a submitter with an interest in the outcome of the proceedings. He is a resident of Tahi Street, and we agreed that he was nonetheless able to provide useful local knowledge and input.

101. We note the concerns expressed by some submitters as to increased vehicle traffic within Māpua Village on Māpua Drive / Aranui Road leading to the site. Mr Clark noted that users of the existing Grossi Point facility already use this route. He considered that much longer and larger vehicles also use these routes for goods and services to Māpua, and he considered that the low level of change from the users of the relocated boat ramp would be indiscernible. A 30% increase in ramp use would only equate to 16 vehicles in the course of a day. He did not consider that the proposed ramp would give rise to capacity constraints at any of the intersections that ramp users may travel through or along.

102. No contrary expert evidence was provided in this regard. We accept and find that the wider traffic network has the capacity to safely handle traffic to and from the ramp. We also note that as well as existing boat trailer traffic to Grossi Point, there is a high level of local and tourist traffic including large vehicles attracted to the Māpua Wharf and commercial area, particularly in summer and holiday periods. Māpua is a popular seaside destination, and from an amenity perspective, large vehicles towing boat trailers would not be unexpected.

103. The main concern is the localised effect of parking and access to the ramp area through and across Tahi Street. Although Tahi Street is already used for access to Grossi Point, the proposal raises concerns about increased trailer traffic including queuing and parking on Tahi Street.

104. Following adjournment of the initial hearing on 27 November, all three traffic experts were directed to participate in expert conferencing including consideration of the layout and surfacing of amended trailer parking and queuing areas on Kite Park which were presented by Mr Clark at the hearing. A joint witness statement (JWS) dated 6 December 2024 was produced and considered at the reconvened hearing.

105. The amended proposal presented at the hearing comprises a parking area located on Kite Park, opposite Tahi Street from Waterfront Park, with a capacity for 65 car and trailer combinations. The parking and access areas would be mostly grassed, with painted markings. Within the parking area a smaller 560m^2 all-weather surface is also proposed adjacent to Tahi Street, with a reduced parking capacity, intended for use in winter months.

106. Mr Clark considered that the grassed surface would be suitable during summer months when use was higher, as evidenced by present use of Kite Park for overflow campervan parking. He also noted that boat use and trailer parking would be reduced during periods of poor weather, when damage to the grass surface might be more likely. The traffic experts agreed in the JWS that the grass surface would be generally suitable, but that additional all-weather surfacing may be required in high traffic areas where turning movements occur, and that a management plan should be included to manage and restore bare patches.

107. Access would be via an entrance only from Tahi Street located at the north end of the parking area, approximately 85m from the Aranui Road intersection. Boat trailer access would be in an anticlockwise circulation around the parking area, providing for a queuing lane for approximately 10 vehicles with trailers in the south side of the parking area. There is also capacity for further vehicles to queue along the west side of the access, without impeding access to trailer parks.

108. PIN pad access is proposed adjacent to an entrance / exit located opposite the proposed ramp access on Waterfront Park. Entry and exit barrier arms are proposed at the Waterfront Park entrance to the ramp from Tahi Road. Vehicles accessing the ramp would be required to queue in the Kite Park lane and enter a PIN obtained through an App based management system in order to gain access to the ramp. Access to the ramp via the barrier arm would only be available when the ramp was vacant, or when a departing vehicle activated the departure barrier arm to exit the ramp.

109. All traffic experts agreed in the JWS that the revised layout was an improvement on that originally proposed and would mean that all parking and queuing of vehicles can now occur within Kite Park, avoiding adverse effects of parking and queuing on Tahi Road and conflicts at the ramp. They considered that further improvements could still be made to improve the operation of the queuing area, including limiting boat length to 7m, and that a design or system solution was still necessary to better manage the retrieval process to give some high priority to these users. They agreed that the proposed accesses would not affect the safe and efficient operation of the intersection of Tahi Street and Aranui Road. Mr Fon still had some concerns regarding the number of potential movements across Tahi Street to access the boat ramp to and from the trailer parking area, particularly as the peak usage of the ramp over the summer period will coincide with peak traffic volumes on Tahi Street. Mr Clark did not consider this to be an issue as the capacity of the ramp meant that there could be around 12 movements per lane per hour. This equates to only two movements every five minutes and would result in less than minor effects on Tahi Road.

110. Both Mr Ford and Mr Fon had concerns around boat retrieval and users needing to go to the back of the queue rather than having some form of priority. The issue was around the person retrieving the boat being held in a queue and the wait time for the person with the boat at the ramp. We share that concern, given the lack of a convenient jetty or other place for boats to temporarily wait prior to retrieval. This is a particular issue during higher tides when the beach is not accessible meaning the boats need to wait offshore in the channel. We do not consider the main Māpua wharf to be a viable option due to conflict with other users such as jumpers and swimmers, relative distance from the trailer park area, and as unattended boats cannot be left there. At busy times, there could be several boats waiting for retrieval while the vehicle is held in the queue.

111. Mr Clark did not consider this to be as significant an issue, as the timing of the boat retrievals was likely to be spread out and outside the peak morning time launch times and this would be managed by ramp users.

112. We consider that a priority system for boat retrieval is necessary, however agree that this should be able to be achieved through the access management system.

113. We have considered the evidence of the traffic experts and agree that with further refinement including a management plan and implementation of an access management system, the proposed parking and queuing arrangement will be able to operate in a safe manner, with the effects of parking and queuing being largely contained within the defined Kite Park area.

114. We find that with suitable conditions any adverse traffic related effects of the proposed ramp will be acceptable.

Effects of noise

115. The application was supported by an acoustic assessment carried out by Mr Farren, and peer reviewed for the Council by Mr Winter. Mr Farren provided expert evidence to the hearing that responded to amendments to the Kite Park boat parking and access area, and matters raised in the peer review and s42A report. No other expert acoustic evidence was provided to the hearing, although noise concerns were raised by some submitters. The main concern expressed was noise caused by vehicles, boats and people, particularly during the early morning period from 4:30 – 7:00 am in summer.

116. Mr Farren noted that boat launching currently occurs at Grossi Point and traffic movements and noise from recreational craft form part of the existing noise environment for dwellings along Tahi Street. He considered that these noise sources will diminish if the boat ramp becomes operational.

117. He considered that early morning boat launches have the greatest potential for noise effects. The available usage data was not clear on how many launches may occur during the earlier morning period before 7am, which is considered as 'night-time' in the TRMP. For this reason, he predicted noise levels associated boat ramp use on a conservative basis. He assessed ramp noise on the basis of what he considered a conservative measurement of 44 dB LAeq (1smin) at 33 metres, which would include a ute driving to the ramp, a ute manoeuvring at the ramp (incl. arrival, reversal down ramp, boat taken off), a ute accelerating up the ramp, and the boat engine starting and leaving. Based on the traffic impact assessment, he conservatively assumed that up to 75% of the total daily summertime boat ramp launches would occur in the 2.5 hour period between 4.30 to 7am. He noted that the modelling heavily weighted pre-7am activity, which is more conservative than the hourly usage data collected at other boat ramps in the region.

118. The modelling provided by Mr Farren for the boat ramp activity indicated that the only dwelling where an adverse noise effect from noise exceeding nighttime limits may occur is 13 Tahi Street, where the owner has provided affected person approval. He calculated a noise level of 50 dB LAeq at 13 Tahi Street for one launch in a 15 minute period. He considered boat ramp noise levels experienced at other dwellings would be less than the 40 dB LAeq TRMP permitted activity night- time noise limit. The proposal would comply with the 55 dB LAeq daytime limit in respect of all properties.

119. He noted that the TRMP daytime limits on Sundays and Public Holidays however reduced to 40 dB LAeq, which would be exceeded. He did not consider that a 40 dB LAeq daytime limit during these periods is necessary in this location to protect residential amenity, as there is very little difference in ambient noise level on Sundays and Public Holidays compared with any other day of the week.

120. The Winter spoke to his peer review which had identified what he considered were gaps in information in the acoustic assessment contained in the application. He noted that further information provided by Mr Farren including noise contours now provided further clarity on noise effects from the ramp operation.

121. We accept Mr Farren's findings that with the exception of 13 Tahi Street, boat launching activities will comply with the night time noise standards at all other properties and will comply with the 55 dB LAeq daytime limit in respect of all properties. We agree that compliance with the lower 40 dB LAeq limit on Sundays and public holidays is not necessary to protect residential amenity values in this location, as the ambient noise environment is unlikely to be perceptibly different from any other day of the week.

122. As the owner and occupier of 13 Tahi Street has provided written approval, we are directed under s104(3)(a)(ii) of the RMA to disregard any adverse effect on them. We note the submissions of Mr Benseman, who occasionally occupies a small shed on the site, however given that the shed is not consented for residential use, we do not consider him to be an affected person.

123. Our finding is that adverse noise effect of the boat ramp activity within Waterfront Park will be consistent with the noise environment anticipated by the TRMP provisions and will be acceptable.

124. The second issue pertaining to noise is the operation of the amended trailer park and access area on Kite Park. Mr Farren provided an assessment of potential noise at nearby dwellings in Tahi Street and Aranui Road, which he considered showed that parking activity would comfortably comply with the 55 dB LAeq daytime limit at the nearest dwellings. As with the boat ramp. He did not consider it necessary from an amenity effects perspective to comply with the lower 40 dB limit on Sundays or Holidays.

125. Taking into account the distance to the car park entrance, he considered that dwellings will be unlikely to experience these levels of noise during the night-time period before 7am when spaces closer to the entrance are likely to be available. However, if high levels of car park use were to occur prior to 7am he considered that acoustic fencing could adequately mitigate effects on 27 B/C/E Aranui Road and 17 Tahi Street. Mr Winter agreed that acoustic fencing could reduce noise by 8dB such that night time levels were met.

126. Having considered the evidence of Mr Farren and Mr Winter, we find that noise effects arising from the use of the trailer park and queuing area are able to be managed such that any adverse effects will be acceptable.

<u>Navigational Safety Effects</u>

127. Several key issues were raised by submitters and in evidence concerning navigational safety. These included:

- Effects of tides and currents on safe operation of the ramp; and

- Conflict between ramp operation and recreational users including wharf jumpers and swimmers

128. Expert evidence on navigational safety and effects of tidal flows was provided on behalf of the applicant by Garey Teear and Captain James Dilly, and from the TDC Harbourmaster Peter Renshaw. We also heard evidence from several submitters experienced in boating in the Waimea Inlet and other locations in the District, who were both for and against the proposal. This included Gordon Adamson, who has a private ramp nearby at 17a Tahi Street, and was able to offer some insight into his direct experience launching and retrieving boats in the area.

129. Mr Teear provided an assessment of tidal flows and their effect on boats launching and retrieving at the proposed ramp. He noted that the current close to the waterline is relatively slow, of the order of 0.2 - 0.3 m/sec 5 m out from the water line, which is manageable when launching a boat. 10 m out from the waterline the speed picks up to 0.5 - 0.6 m/sec.

130. He noted that the slow flow area moves down the ramp with the tide due to bottom friction effects at the shore, meaning that it is possible to put a boat trailer in the water without being subject to strong currents at all stages at the tide. The potential hazard existed due to the stronger flow conditions that exist further out into the channel once the boat is off the trailer. Skippers would need to be situationally aware of how the flow is moving their boat, a situation can deteriorate rapidly in these conditions.

131. Due to the strong flows across the ramp he did not recommend using a floating jetty aligned with the ramp, and perpendicular to the tidal currents. In this situation, he considered boats can be pinned against the jetty pontoons and find it difficult to get away from the pontoon. We were advised by other submitters of boats running into similar difficulty at the existing floating pontoon at the wharf, including an example of a boat sinking.

132. Captain Dilly and Mr Teear were in agreement that the boat ramp is suitable as an all-tide ramp for experienced vessel operators but this did not mean that the ramp cannot be used by less competent operators. Under most conditions of tide, Captain Dilly considered the ramp would also be able to be used by less competent operators; however, there will be some tidal conditions (such as spring ebb tides) where it may be advisable that less competent operators delay their arrival or departure at the ramp until the tidal flows in the channel decrease, which is the situation at many other boat ramps. He considered that measures such as signage and provision of information through the booking system would be useful to raise awareness of safety issues with ramp users. He also noted that less experienced operators are sometimes more cautious and take less risks that experienced operators who may be complacent.

133. Overall, at the point of launching and recovery at the proposed boat ramp, he considered the tidal flow is reasonable for operation. However, moving further away from the shoreline, the tidal flow becomes more apparent and further out in the channel, the tidal flow is stronger and may possibly, under rare situations, create issues for inexperienced operators or operators having technical issues. He considered these issues would be mitigated by the use of the proposed floating barrier to prevent vessels from being swept onto the wharf and to reduce potential conflict with wharf jumpers.

134. Captain Dilly noted that a range or powered and unpowered vessels currently navigate within this area of the channel that may experience strong tidal flows with little issue. He saw no demonstrable reason why vessels launching from the ramp would experience more problems.

135. He did not consider that a pontoon or jetty was necessary to assist in the actual launching or retrieval of boat from a trailer. He noted that vessels currently launch at Grossi Point where there is not a pontoon available. A vessel returning to the ramp, or picking up a vehicle driver, would be easily able to do so at the ramp or at the immediate foreshore. The current close to shore is relatively slow. He considered that at high tide when there is no beach, a boat could nose into the ramp to drop off or pick up a person.

136. Captain Dilly disagreed with the suggestion of Mr Renshaw that a pontoon could be placed parallel to the current, as the necessary length to reach low tide areas would place boats in a high flow area during high tides.

137. Captain Dilly acknowledged that navigation safety effects can be minimized or reduced to an acceptable level but cannot be completely resolved if vessels are operating in an area. There may be conditions when this boat ramp should only be used by competent vessel operators. However, he noted there are many examples of local and central government facilities where users must make decisions as to whether the activity at a particular location on a particular day is safe for the experience of a particular party.

138. He discussed the concern that the operation of the boat ramp would interfere with the current practise of swimming and jumping from Māpua Wharf. Captain Dilly noted that the proposed boat ramp is > 50 m away from the wharf. He did not consider that the launching and recovery of vessels at the ramp will prevent people from swimming and jumping from Māpua Wharf.

139. Most vessels using the proposed boat ramp would be likely to make use of a designated transit lane located 50m from the eastern shore of the channel. This would mean that most vessels will be navigating away from the Māpua Wharf. Captain Dilly also noted that under the Tasman District Council Navigation Safety Bylaw 2024, no person shall jump, dive, swim or undertake related activities from, or within 50 m of a landing place while it is in use for berthing and/or unberthing of vessels or when a vessel is approaching to berth, or manoeuvring alongside, or departing. Accordingly, people should not be swimming when a boat is berthing at the wharf. The 5-knot speed restriction within 200m of the wharf also applied.

140. Captain Dilly did not consider that the operation of the ramp would lead to more conflict with swimmers and jumpers, compared with vessels that have launched from Grossi Point.

141. Mr Renshaw agreed that tidal flow at the ramp site would be manageable, with slower currents near the waterline. This meant a degree of skill would be needed to manoeuvre a vessel through the faster current but the current would slow before the vessel gets too close to the trailer. He agreed that the proposed ramp could be an all-tide ramp for experienced boat operators aware of the strong flow conditions once the boat is off the trailer.

142. He also agreed that a floating barrier should be provided at the wharf to reduce potential conflict with swimmers.

143. Mr Renshaw had recommended a floating pontoon be provided and noted the comments of Mr Teear and Captain Dilly. He agreed that a perpendicular pontoon was not suitable but considered that a parallel pontoon should be considered. He did not consider this needed to extend fully to the low tide area but could be shorter to be used at mid tide and above. This would address the concern of Captain Dilly of a long pontoon extending into the strong current at high tide.

144. He still considered a jetty to be necessary to provide a secure location for vessels to wait while the ramp is occupied or trailers are being manoeuvred. He considered that the rock armouring and lack of anywhere to tie up, made it difficult for people to get on and off boats at high tide when there is no beach.

145. Mr Renshaw agreed that vessels must adhere to speed limits near the wharf, and that the proposed ramp would not interfere with current swimming and jumping activities.

146. Several submitters provided evidence attesting to the popularity of the Māpua Wharf for jumping and swimming and expressed concern that this activity might be curtailed by conflict with the ramp activity and increased use of the wharf. They also described the popular practice of tidal drifting, where swimmers are carried by the current from the Wharf to Grossi point and vice versa on the in and outgoing tides. They were concerned that swimmers would be passing directly in the path of boats using the ramp.

147. We have considered the expert and submitter evidence provided. We note the evidence that currents reduce close to shore, meaning that boats being launched and retrieved may not be significantly affected by tidal currents at the ramp – however for reasons below we question whether this will be the case in all tide conditions due to the height of the ramp above the seabed placing trailers further out into the current. We agree that boat operators will need to be aware of tidal conditions further away from the ramp where currents are stronger.

148. We did not consider this to present a significant hazard during early morning periods when maximum launching activity was likely, as departing boats are likely to travel directly across to the transit lane.

149. We are concerned with the effect of currents on boats being retrieved, as we were advised that currents are stronger some 10m and more from the shore compared to close in. The design of the ramp being raised above the sea floor means that trailers will need to be positioned further than 5m from the waters edge in order to achieve a suitable depth, placing the rear of the trailer at 10m or more from the waters-edge and in the area of faster current. The long sections details show that at mean sea level, the point of the ramp where the water level meets the ramp is already approximately 5m from the waters edge.

150. The evidence provided by Mr Teear and Captain Dilly was that currents are slower in the first 5m from the waters-edge and increases 10m from the shore. They considered that boat retrieval could be safely undertaken in the slower moving water close to shore – however that could only happen with a ramp at beach level – the elevated ramp means that the trailer and retrieval point will actually be further out into the current.

151. This means that boats lining up to approach a trailer will be affected by the current and need to allow for sideways drift during their approach and driving or winching on to the trailer. The flow across the ramp will make centring a boat difficult, particularly if the trailer is not self centering. This will require additional skill and attention for operators, particularly as being a dual ramp, there may be two boats attempting to approach at once, as well as other boats picking up and dropping off drivers and passengers, or waiting in the channel for retrieval.

152. We are conscious that many boats are likely to return in the late morning / early afternoon period before afternoon sea breezes start. In summer this is likely to correspond with increased number of wharf jumpers and swimmers including tide drifters, who may be present in the ramp approach area. We are concerned that this places multiple hazards in this location, where

boat operators, including those less experienced, will be concentrating on lining up with the ramp and possibly making multiple attempts, and may be distracted by the task at hand.

153. We note the comments of Captain Dilly that the navigation bylaws do not allow swimming within 50m of Māpua Wharf when a boat is berthing. Our understanding is that this bylaw also applies within 50m of any landing place – which includes a boat ramp. Accordingly, under the bylaw, wharf jumpers and swimmers would not be permitted within 50m of the ramp either when it is in use. On face value, this would reduce the potential safety conflict between swimmers and ramp users. However, it would also mean that swimmers are effectively prevented from wharf jumping and tide drifting for large parts of the day whenever the ramp is in use. Given the local popularity of jumping and swimming at the wharf, we do not consider that this would be practicable to enforce, and if it were, it would deny a locally important recreational opportunity.

154. Accordingly, whilst safe operation that avoids conflict with swimmers may be possible, this would likely be at the expense of reducing or denying recreational use for wharf jumping and swimming, which will be unacceptable to many in the community.

155. We have considered the evidence of Captain Dilly and Mr Renshaw as to the need for a pontoon. We agree with Mr Renshaw that a smaller pontoon parallel to the current but only extending to mid-tide should be considered. This would not need to extend fully to the low tide area, therefore would not be impacted by currents at high tide. At low tide, boats are able to beach to drop off and pick up drivers and passengers. However, at high tide when there is no beach, the rock armouring and the drop from the ramp makes this hazardous. We do not consider dropping drivers at the ramp to be practicable as the ramp is likely to be in use by others, and it cannot be used as a place to tie or hold a boat while waiting for a driver or loading passengers including families with children.

156. We also note that the lack of a pontoon does not provide an option for solo boat operators to safely secure their boat while retrieving a car and trailer.

157. Our finding is that the proposed ramp is able to operate safely in some situations, particularly with experienced operators, however there are significant potential hazards due to the ramp design placing the retrieval point in areas of higher currents and the presence of recreational swimmers. These are exacerbated by the two-lane ramp which increases potential conflicts. Whilst the TDC bylaw may mean that conflict with swimmers can be avoided, this would be at the cost of loss of recreational opportunity, which will be unacceptable to many in the community.

158. We find that the lack of a suitable landing and temporary tie up point such as a pontoon for use in mid to high tide periods will result in potential adverse safety effects.

<u>Effects of land and foreshore contamination</u>

159. We have outlined the legacy contamination issues at the site resulting from the FCC in the site description section above. A common theme through submissions was concern about the risks of mobilising contaminants through disturbing Waterfront Park and the adjacent marine sediments to construct the boat ramp.

160. The applicant's contaminated sites expert was Mr Oddy, who prepared expert evidence, oversaw additional sampling and prepared subsequent updated information. Attachment 8 of the s.42A report provided comment from Ms Anna MacKenzie, a Resource Scientist at TDC,

however this was limited and Ms MacKenzie did not appear at the hearing. Mr Pigott, co-author of the s.42A report, provided comment on Mr Oddy's evidence at the hearing and attended the caucusing. While we acknowledge the broad experience of Mr Pigott, he is not a contaminated sites expert and we are disappointed that TDC did not engage a contaminated sites expert to review this application.

161. We also heard expert contaminated site evidence from Ms Jenny Easton for Friends of Māpua Waterfront. Ms Easton also submitted in opposition and both she and Ms Gepp acknowledged the limitations in presenting expert evidence as a submitter. Ms Easton has spent much of her life living in Māpua and her work for TDC as a Resource Scientist from 1995 to 2012 saw her closely involved with the FCC site remediation. Ms Easton's knowledge of the site's history and its remediation has been valuable.

162. The area underwent remediation and capping in the early 2000s, with the use of Mechano-chemical Dehalogenation (MCD) for soils and the placement of a subsoil and topsoil cap. This reduced the level of contamination, with lower contamination material placed in Kite Park (or FCC West) providing for zoning as Residential. We heard that limited remediation was undertaken in the CMA, with the primary objective being to secure the remaining pesticide residue on land to prevent escape into the estuary.

163. We will first address the effects on site contamination on land before discussing the effects in the CMA.

Land Contamination

164. We heard that Waterfront Park (or FCC East) area has been capped with 500 mm of material meeting the residential SAC. This comprises 150 mm of imported topsoil, with a mix of imported material and remediated soil from the site to 500 mm depth. The FCC SMP states that material between 150 mm and 500 mm presents no human health risk but *"could present a risk to the marine environment if brought to the surface or disposed of in a location where it could be transported to the marine environment in significant quantities via run-off".* Soil deeper than 500 mm has wider environmental risks and any excavated material should be disposed of to an appropriate facility (for example, a landfill).

165. The Applicant proposes to avoid substantial excavation of contaminated material on land by constructing the boat ramp over the existing cap. This results in the ramp extending further into the estuary and raises the height at the landward end. We agree that reducing the amount of excavation at this site is critical to reducing the effects, and for complying with the FCC SMP.

166. Some soil disturbance will occur to construct the boat ramp access way, to construct a culvert on Tahi Street, and to recontour the existing swale. Excavation and soil disturbance for the accessway construction is not expected to extend beneath the cap, with the design drawings dated 28 January 2025 showing removal of between 250-400 mm of material at the western end of the accessway to 150 mm at the eastern end. The swale recontouring is required to prevent stormwater flows into 13 Tahi Street, and a new stormwater outfall from the swale to the CMA is proposed, with a pedestrian footpath above. The swale contouring will primarily be with topsoil stripped from the accessway, and exposed soil will be contained during construction. Works to construct the swale outfall are likely to disturb the soil below the cap, and some excess material will likely need to be disposed of off-site. Measures are proposed to prevent runoff while the site is exposed.

167. Submitters raised concerns about the removal of existing vegetation in Waterfront Park, particularly trees with deep roots extending into contaminated material. The revised Construction Methodology and Erosion and Sediment Control Plan Overview report[3] (CMP) states that large trees and bushes will be poisoned and cut off at ground level, with the roots remaining *in situ* to prevent contaminated soil disturbance. We consider that this mitigation is appropriate.

168. The proposed car and trailer parking area at Kite Park has been remediated to residential SAC. Minimal disturbance is proposed to construct a small, all-weather parking area. We do not have any concerns about the effects of construction in this area, due to the low levels of contamination present.

169. We acknowledge the concerns of submitters given the history of this site and the contamination still present. However, we are satisfied that the applicant has proposed appropriate measures to manage the risks associated with soil disturbance on the landward part of the site, and that these are consistent with the requirements of the FCC SMP. Sampling of material will be undertaken and any contaminated material will be removed to an appropriate facility, erosion and sediment runoff will be appropriately managed, including from stockpiles, and more of the area will be covered with an impermeable surface following construction.

Contamination within the CMA

170. Turning to the effects of contamination within the CMA, we find that this is more complicated than that on the landward side. We are satisfied that the effects of landward site contamination can be adequately managed, including the effects of runoff into the CMA. This means that the key effects for consideration in the CMA are those associated with disturbing potentially contaminated foreshore sediments.

171. Limited recent sampling of the marine sediments was presented in the AEE and in Mr Oddy's evidence, and following the hearing we requested additional sample of marine sediments at a depth and location that reflected the proposed construction activities. The results of this sampling were presented by Mr Oddy in the Supplementary Detailed Site Investigation report[4].

172. The site contamination experts undertook caucusing on 7 and 16 May 2025, after the hearing and the provision of additional sampling. Points of agreement and disagreement were helpfully recorded, with agreement reached on a number of matters. We return to this below.

173. Following caucusing, Mr Pigott provided a memorandum[5] presenting the results of sampling undertaken by TDC as part of their regular post-remediation monitoring. While levels of DDX at most sites have remained stable, a significant increase was recorded at one site due to the presence of prills (solid granules) of DDT. Mr Pigott suspected that works in the foreshore had disturbed deeper sediments, resulting in prills being brought to the surface. TDC were undertaking additional sampling to determine the extent of the hotspot, any potential risks and recommended actions.

174. Ms Easton and Mr Oddy were asked to consider whether the latest sampling results would have changed their views expressed in the caucusing. For Ms Easton, it reinforced her view that the site characterisation is inadequate and that additional sampling should be undertaken to inform decision making.

[3] Prepared by Mr Stevenson, Davis Ogilvie, January 2025
[4] Davis Ogilvie, April 2025
[5] Dated 16 June 2025

175. Mr Oddy's response was provided within Mr McFadden's right-of-reply. He directed us to a post remediation Site Validation Report prepared by Sinclair Knight Merz (2008) which stated that samples from depths greater than 250 mm showed significantly lower concentrations than shallower samples at the same locations. The SKM report refers to sampling undertaken between 1977 and 1996. The evidence of both Mr Oddy and Ms Easton states that contaminated material will be buried with time due to sediment infilling in Waimea Inlet. We therefore find it difficult to place any weight on the SKM report referencing concentrations being lower at depths below 250 mm. This is also not supported by the additional sampling undertaken by Mr Oddy after the hearing, which showed that higher levels of contamination were found at greater depths (when sampling at depths up to 500 mm).

176. Mr Oddy's Supplementary DSI usefully discusses different exposure pathways based on contamination levels and sediment characteristics. Specifically, separate analyses were undertaken on material less than 2 mm in size and that less than 63 μm, with an additional leachate analysis to determine the concentration of contaminants in solution. Contaminants in the finer fraction and in solution are those that will more likely be mobilised into the surrounding environment. Mr Oddy states that the majority of sediment is within the coarser fraction, reducing the risk of contaminants being mobilised. However, samples in all size fractions and the leachate sample showed results in excess of guideline values for ecological receptors[6] and the FCC SMP marine sediment SAC.

177. We do not accept Ms Easton's comments that the sampling is still too limited for a decision to be made, however consider that further sampling would need to be undertaken prior to construction works commencing to further characterise the material to be disturbed and/or excavated. This can be required through consent conditions, should we grant consents. We note Ms Easton's concerns regarding contamination in the vicinity of low tide, where a historic stormwater outfall discharged DDT until 1967. For this reason, she is concerned about potential contamination within the reno mattress excavation area.

178. We find that there is sufficient sampling information for us to conclude that the foreshore sediments are highly contaminated and that this contamination is not uniform. It is not disputed that the levels of DDX, aldrin and dieldrin are above applicable guideline values for the protection of ecological receptors, and that this contamination is throughout the depths to be excavated and within all particle fractions analysed. We agree with the contaminated site experts that extreme care would be needed to prevent contaminated material escaping to the wider Waimea Inlet environment. This applies to construction, operation and maintenance activities.

179. The FCC SMP does not address the management of activities in the CMA adjacent to the former FCC site, focusing instead on land-based activities that may affect the CMA (for example, through surface run-off). Mr Oddy is critical of TDC's management of the site, including the FCC SMP not having been updated since 2012 and its lack of coverage of the foreshore area. As a live document, he claims that it should be updated to reflect law changes, best practice and knowledge of the site. We agree that an updated SMP would be beneficial, and that guidance for those undertaking subsurface work in the foreshore would be a useful addition. However, this is a matter for TDC and is outside the scope of these consent applications.

[6] Australian and New Zealand Guidelines for Fresh and Marine Water Quality Guidelines (recommended default guideline values for toxicants in sediment. Guideline values – High).

180. The proposal includes the excavation of up to 150 tonnes of sediment from the foreshore, which would be disposed of at an appropriate landfill facility. This excavation is to a depth of up to 500 mm to construct the boat ramp ballast raft, reno mattress and protective rock armouring.

181. While we agree with Mr Oddy that there are positive effects from the removal of this material, there are also considerable risks. Mr Oddy considers that the short term effects would outweigh the effects of leaving the material in situ, where it would be subject to leaching from wave action and groundwater movement. He refers to the dilution of released material that would be achieved through tidal movement. He also states in the Supplementary DSI that:

> *The soil proposed to be excavated is therefore required to be handled carefully to ensure that it does not come into contact with water, and if handled when wet (very likely given the high water table in the foreshore) is managed in such a way that all soil and water excavated is captured and sent to a treatment train, that will separate the sediment from the water and treat the water prior to discharge.*

182. This statement is reflected in the caucusing, where the experts agreed that extreme care would be needed in the management of contaminated material. They agreed that the wet material from the foreshore would need dewatering and that validation of soil disposal limits would be required. The CMP prepared by Mr Stevenson states that, should dewatering occur, the water would be pumped to a treatment system before being discharged to a silt trap on the beach. We note that such a discharge may require an additional resource consent.

183. Construction in the CMA was not well addressed in the AEE and a general response was provided to a request for further information from the Council officers. The evidence of Mr Stevenson and Mr Teear also did not adequately address this issue, and we requested additional information in our Minute 3. The Davis Ogilvie CMP was provided in response, prepared by Mr Stevenson. While we acknowledge that detailed construction methodology is completed by the contractor, we note that the information provided in the CMP is overly light on detail for the construction methodology in the CMA. We have relied on this, and the mitigation proposed through consent conditions, to reach our conclusions.

184. The use of a coffer dam is discussed to enable works to occur for longer periods either side of low tide and to reduce the distribution of contaminated material. We consider this to be particularly important for construction of the reno mattress, which is located close to the low tide mark and in an area of potentially elevated contamination. The coffer dam would be submerged at high tide, potentially resulting in additional disturbance of exposed contaminated material through tidal movement. This effect is not addressed, although the s.42A officers have recommended that the CMP required through consent conditions include a *"Specific management plan for the construction of the reno mattress including a dewatering plan and disposal plan for the material excavated from the seabed"*. While this is a useful addition, we consider that it will not fully address the potential effects. As stated above, the tidal range at the site is considerable and this presents additional complexities for construction activities.

185. The existing rock wall is proposed to be removed to 5 m either side of the proposed boat ramp. This will be reinstated once the boat ramp is secured. Submitters and experts highlighted this as another area of potential risk for release of contaminated material, however Mr Oddy stated at the hearing that the clay barrier is thick and that the rocks only provide a certain level of protection. Ms Easton refutes this, considering exposure through rock removal to be a very high risk activity.

186. Mr Stevenson suspects that the rock wall will not be open for more than four weeks. In the caucusing statement, the experts agree that the works should be done in clear weather and not during king tides. They agreed that edge effects may occur and that an emergency plan is necessary. This plan would need to address how the site would be managed during adverse weather and/or tidal conditions.

187. We have carefully considered the information before us and have weighed up the potential risks to the environment if the construction methodology falls short. While we have not received evidence on the risks to the environment of exposure to contaminated material, we consider that they would be unacceptable given that the level of contamination is in excess of acceptable guideline values – in the case of DDX, up to three orders of magnitude above the ANZ guideline values. It is essential that the construction methodology provides certainty that the contaminated material will be appropriately managed.

188. The proposed conditions include the minimum list of requirements to be included in a CMP. While these requirements appear to be adequate, we find that we do not have sufficient information to be confident that there are appropriate construction methods for this site and, if so, what these might be. While there may be methods to manage construction to achieve an acceptable level of effects, we consider that the risks would be difficult to manage and that a certain amount of luck would be needed to pull this off at this site.

189. In conclusion, we consider that the combination of high levels of contamination and tidal flows make this an extremely sensitive site for the proposed construction activities. We therefore consider that a high level of confidence is required that the effects of construction in the CMA can and will be appropriately managed. We do not have this confidence and are unable to conclude that the effects on the surrounding environment from exposure to contaminated material will be acceptable.

190. Several submitters raised concerns that the churn of sediment from boat engines could further disturb contaminated sediments. While this is a possible ongoing effect, Policy 23(5)(b) directs that we cannot consider the disturbance of contaminated seabed material from the movement of vessels.

Effects on Wildlife

Effects on lizards

191. A lizard survey undertaken at the site identified a population of the native northern grass skink, primarily in the vegetated swale area adjacent to 13 Tahi Street. This species is classified as Not Threatened under the New Zealand Threat Classification System, and has established at the site since the area was planted in 2012/2013. The survey was undertaken by Dr Ussher for the applicant's ecologist, Dr Robertson. Dr Robertson presented evidence for the applicant, while Dr Ussher presented evidence on behalf of the Friends of Māpua Waterfront. Dr Ussher also submitted in opposition to this application.

192. The vegetated swale area is proposed to be recontoured and replanted, which would result in loss of habitat for this skink population. Drs Robertson and Ussher have differing opinions as to the significance of this loss.

193. Dr Ussher considers there to be little habitat for northern grass skinks in the wider Māpua area and considers that, while a nationally common species, this population should be afforded a moderate level of value. The proposal would result in loss of most of the skink habitat at the

site and Dr Ussher has little confidence that they will survive relocation elsewhere. He concludes that this would result in a significant effect. Dr Ussher recommends a condition requiring the preparation of a Lizard Management Plan, which is accepted by the applicant.

194. Dr Robertson refers to Dr Ussher's lizard assessment and defers to the requirements under the Wildlife Act 1953. We note that all lizard species are protected under the Wildlife Act and that a Wildlife Authority would be required to salvage and relocate the lizards. The effects of the disturbance would be assessed at this time, and we consider that this is the more appropriate mechanism for considering this effect.

Effects on Variable Oystercatchers

195. A neutral submission was lodged by David Melville on behalf of the Ornithological Society of New Zealand, raising concerns with the loss of land at Kite Park as a foraging and roosting area for the "At Risk" Variable Oystercatcher *Haematopus unicolor*. Evidence and further rebuttal evidence was provided on this matter by Mr Melville, as well as the ecological evidence of Dr Robertson for the applicant. Effects on oystercatchers were also raised as concerns by other submitters including in legal submissions by Ms Gepp.

196. Mr Melville described the Variable Oystercatcher as being endemic to New Zealand, and 'is probably the second-rarest oystercatcher globally at species level', currently listed as 'At Risk – Recovering' by the Department of Conservation. He considered that 'Kite Park' is a site that is used as a roosting and foraging site by internationally important numbers of Variable Oystercatchers (1% or more of the global population) periodically throughout the course of a year especially during/following rain, when birds forage for earthworms.

197. This raised a concern that potential loss of the grassed area of Kite Park to vehicle / trailer parking with a potential all-weather surface would lead to displacement of a significant population of variable oystercatchers. He was concerned that recommended conditions of consent would require an all-weather surface. Mr Melville and Ms Gepp both submitted that such displacement was potentially contrary to Policy 11(1)(a) of the NZCPS which directs that adverse effects on threatened indigenous taxa be avoided.

198. Mr Melville considered that the proposed use of Kite Park for vehicle and boat trailer parking will effectively prevent birds from using the area for foraging and roosting when more than a few vehicles are present. If the area remains as open grass, he considered that potentially birds might continue to use it when vehicles are absent. He considered that in view of the fact that most Variable Oystercatchers are usually present in periods of wet weather when the number of vehicles and trailers is expected to be few, use as a carpark and use by birds might potentially co-exist. However, regular vehicle movements would compact the soil and could be expected to reduce invertebrate populations, including earthworms, which are the most frequently taken prey by Variable Oystercatchers at this site.

199. In response to questions, Mr Melville acknowledged that Kite Park does have a residential zoning in which redevelopment for such purposes could potentially occur.

200. Dr Robertson considered that a significant area of suitable, managed grassland habitat would remain at Kite Park, which he expected would adequately mitigate any potential adverse (displacement) effects on variable oystercatchers. He did not consider that information showed that Kite Park constitutes essential habitat for the species. He considered that the broader Tasman Bay, including Waimea Inlet, is internationally recognised as the primary site for this

species, offering extensive intertidal habitats that are expected to offer significantly greater ecological value than the intermittent grass foraging opportunities available at Kite Park.

201. He noted that use of Kite Park for car/trailer parking is expected to coincide primarily with periods of fine weather, when boating activity is higher. These conditions are likely to be less conducive to oystercatchers foraging on grassed areas, as their use of Kite Park is expected to increase during/ following wet conditions when earthworms are more accessible. We note that this is consistent with the comments of Mr Melville who accepted that use by carparking and birds might co-exist. Dr Robertson also considered that the limited area of all-weather surface now being proposed would reduce the potential for soil compaction and loss of foraging opportunity.

202. We have considered the evidence of Mr Melville and Dr Robertson. We note that both experts agreed that the trailer park area could co-exist with the variable oystercatcher, and both acknowledged that peak carpark use during dry summer weather is unlikely to coincide with wet periods when the birds are present and foraging. We agree that maintenance of the grassed surface over most of the carpark surface will mean that an environment suitable for earthworm foraging is retained. We agree with Dr Robertson's comment that the oystercatcher is well adapted to and tolerant of disturbance, and that continued availability of both inland (including Kite Park) and extensive intertidal habitats within Waimea Inlet/ Tasman Bay, significantly mitigates potential displacement effects. In this regard we note that the oystercatcher does not permanently occupy Kite Park as its sole habitat – rather it occupies according to the ground and feeding opportunities. We agree that the optimum conditions for the oystercatcher coincide with conditions when Kite Park is unlikely to be heavily used for boat trailer parking.

203. We do not consider that an adverse effect on the variable oystercatcher will occur to the extent that they are contrary to Policy 11 of the NZCPS.

204. We also note that Kite Park is already used for overflow campervan parking in summer months therefore some effects similar to (but of a likely lesser scale than) the proposed trailer parking are already occurring. The residential zoning of the site also means that it can be developed for housing, which would result in an almost complete loss of foraging opportunity.

205. For the above reasons we find that adverse effects on the habitat of the variable oystercatcher will be minor.

<u>Effects on cultural values</u>

206. The site is part of the Te Tau Ihu coastal marine area and is recognised as a Statutory Acknowledgement Area for all eight Te Tau Ihu iwi by the Ngāti Apa ki te Rā Tō, Ngāti Kuia and Rangitāne o Wairau Claims Settlement Act 2014, the Ngāti Koata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014, and the Ngāti Toa Rangatira Claims Settlement Act 2014.

207. We heard from local iwi, through submissions, cultural effects assessments, and presentations at the hearing, that the site is culturally significant and highly sensitive. Cultural Effects Assessments were prepared by Te Rūnanga o Ngāti Kuia Trust and Ngāto Apa ki te Rā Tō Charitable Trust in 2022, prior to detailed development of the proposal. While these documents do not assess the effects of the proposal in detail, they provide a useful background to legislative framework and the cultural values of Māpua and the Waimea Inlet.

208. Ms Love of Te Ātiawa o Te Waka a Māui Trust spoke at the hearing of the extensive cultural finds of Māori origin that were uncovered during the FCC remediation. Kōiwi were then reinterred near the proposed boat ramp and parking area. Due to the sensitivity of this information, this was discussed further with us in a closed session. This included discussion of potential conditions that could mitigate these effects, including the provision of an on-site cultural monitor and accidental discovery protocol requirements. These requirements were reinforced by Te Rūnanga o Ngāti Rārua.

209. We will not disclose the outcome of the discussion with Ms Love, other than to say that we are satisfied that the effects on kōiwi can be managed through appropriate consent conditions.

210. We also heard of the high cultural values of the coastal environment, including for mahinga kai, and concerns about potential increases of stormwater discharges and sedimentation in the CMA. We were asked to carefully consider the application to ensure that the effects of sedimentation and water contamination can be mitigated to the highest levels, in recognition of the high cultural values of the area.

Positive effects

211. We agree that the provision of a boat ramp will result in positive effects for the Māpua and wider Tasman Bay communities. There is a clear benefit for the local and wider district boating community in providing a boat ramp to replace the existing ramp which is no longer available for public use. Māpua is a rapidly growing coastal community where boating is an important recreational pastime and there is a community expectation for a high-quality permanent launching facility. There is a lack of suitable locations and options for a ramp.

212. Boating is an activity which positively benefits many people, and also attracts visitors to Māpua and the district, providing economic benefit. We are mindful that some of these positive effects already exist with the availability of Grossi Point, however that is an informal gravel ramp that does not suit all users. The new facility would be likely to be more available to a greater number of people in a wider range of tide conditions.

213. We heard from some submitters that potential positive community and environmental effects might arise if Grossi Point were no longer used to launch boats and became available for other recreational use. We have discounted this, as the proposal does not include closure of Grossi Point and that is not before us. Some users may also still chose to use Grossi Point. There is therefore no guarantee that such benefit would arise.

214. In acknowledging the positive recreational effects to the boating community of providing a boat ramp in this location, we are also conscious of the need to balance this against potential negative effects on other recreational values and opportunities that may arise, due to conflict with other existing recreational pursuits by other sectors of the community including wharf jumping and swimming, and some loss of access to the foreshore from Waterfront Park.

SECTION 104(1)(B) – RELEVANT PLANNING PROVISIONS

215. Section 104(1)(b) requires us to have regard to any relevant provisions of statutory planning documents. There was no dispute at the hearing as to the relevant statutory documents or the provisions that apply to the proposal. These are the:

- New Zealand Coastal Policy Statement (NZCPS).

- Tasman Regional Policy Statement (RPS); and
- Tasman Resource Management Plan (TRMP).

216. The TRMP is a unitary plan that contains provisions relating to district and regional council planning functions. Parts of the TRMP are older than the NZCPS, which was gazetted in 2010. The provisions relevant to this proposal cannot therefore be assumed to implement the NZCPS. The RPS became operative in 2001 and is therefore assumed to not give effect to the NZCPS. For matters in the CMA, we consider it appropriate to place more weight on the provisions of the NZCPS than the RPS and TRMP.

217. The s.42A report identifies and considers the provisions in each of the above documents that are relevant to this application and, except where identified below, we adopt that for this decision.

New Zealand Coastal Policy Statement

218. Policy 3(1) of the NZCPS is to:

Adopt a precautionary approach towards proposed activities whose effects on the coastal environment are uncertain, unknown, or little understood, but potentially significantly adverse.

219. Given our findings as to the unacceptable and uncertain risks associated with construction of the ramp in an area with contaminated marine sediments exceeding acceptable guideline values, we consider that approving the proposal would not adopt a precautionary approach and would be contrary to this policy.

220. Policy 6(2) of the NZCPS is of particular relevance to this application and is worth replicating here:

> *(2) Additionally, in relation to the coastal marine area:*
> *(a) recognise potential contributions to the social, economic and cultural wellbeing of people and communities from use and development of the coastal marine area, including the potential for renewable marine energy to contribute to meeting the energy needs of future generations;*
> *(b) recognise the need to maintain and enhance the public open space and recreation qualities and values of the coastal marine area;*
> *(c) recognise that there are activities that have a functional need to be located in the coastal marine area, and provide for those activities in appropriate places;*
> *(d) …*
> *(e) promote the efficient use of occupied space, including by:*
> *(i) requiring that structures be made available for public or multiple use wherever reasonable and practicable;*
> *(ii) requiring the removal of any abandoned or redundant structure that has no heritage, amenity or reuse value; and*
> *(iii) considering whether consent conditions should be applied to ensure that space occupied for an activity is used for that purpose effectively and without unreasonable delay.*

221. We have discussed policy 6(2) in our assessment of effects on landscape and natural character values of the coastal area and CMA. We consider that the provision of a boat launching ramp contributes to the social, economic and cultural wellbeing of the community. We agree that the Māpua Waterfront Park and Wharf precinct are a modified environment, in which the TRMP

anticipates that an activity such as a boat ramp may be located, and has capacity for change. Public open space and recreation values are generally maintained, although the improved recreation values for boating activity may also be offset by reduced recreation values for swimming and other recreation activities in the immediate vicinity. This is a localised issue.

222. We accept that a boat ramp by its nature has a functional need to be located in the CMA, however do not consider that this means that every location is appropriate. Policy 6(2)(c) also requires us to consider whether or not this is an appropriate place.

223. We acknowledge that the TRMP provisions do anticipate development in the CMA close to Māpua Wharf, however find that there are several factors that make the site inappropriate for the ramp as proposed due to:

- The large size and visual impact of the ramp
- Potential conflict with other recreational use
- The site contamination constraints which require the ramp to be higher and extend further into the CMA than would otherwise occur
- Construction and use of the ramp on the contaminated site presenting an unacceptable risk due to mobilization of contaminants contained in marine sediments

224. We consider that the proposed ramp is inconsistent with Policy 6(2)(c). For this reason, we also find that the proposal is inconsistent with Objective 6. Whilst we agree that the proposed ramp enables people and communities to provide for their social, economic and cultural wellbeing, we do not consider that the proposed use is in and of an appropriate place and form.

225. We do not consider the proposal to be inconsistent with Policy 11 relating to indigenous biological diversity, insofar as adverse effects on lizard and oystercatcher habitat can be acceptably managed.

226. We agree that due to the modified nature of the coastal environment in this location, that the overall adverse effects on natural character of the coastal environment including ecological effects, will not be significant in the context of Policy 13, however do consider that there is some potential inconsistency to the extent that effects of disturbance of contaminated marine sediments may impact on biophysical qualities.

227. We find that the proposal is consistent with Policy 15, to the extent that the immediate landscape values close to the Māpua Wharf and Waterfront Park have capacity to absorb change, and the wider outstanding feature and landscape values of the Waimea Inlet will be maintained.

228. Clauses (1), (4) and (5) of Policy 23 are relevant to discharges into the coastal environment. Clause (1) of Policy 23 is as follows:

> *(1) In managing discharges to water in the coastal environment, have particular regard to:*
> *(a) the sensitivity of the receiving environment;*
> *(b) the nature of the contaminants to be discharged, the particular concentration of contaminants needed to achieve the required water quality in the receiving environment, and the risks if that concentration of contaminants is exceeded; and*
> *(c) the capacity of the receiving environment to assimilate the contaminants;*
> *and:*
> *(d) avoid significant adverse effects on ecosystems and habitats after reasonable mixing;*

(e) use the smallest mixing zone necessary to achieve the required water quality in the receiving environment; and

(f) minimise adverse effects on the life-supporting capacity of water within a mixing zone.

229. We have had regard to the matters in Policy 23(1), concluding above that the receiving environment is highly sensitive to the discharge of contaminants, particularly DDX, and that the risk of disbursal of existing contamination in the foreshore sediments during construction activities is high. We are not confident that the proposed construction mitigation measures will contain the contaminants adequately to result in a reasonable mixing zone, or that adverse effects within that mixing zone could be minimised.

230. We consider that the proposed mitigation measures for stormwater discharges, both during construction and operation of the boat ramp, are sufficient for this discharge to be consistent with clause (4) of Policy 23. The mitigation proposed to manage stormwater run-off during construction will remove most sediment and, with it, contamination. Operation-phase stormwater will be treated in the swale before discharge to the CMA, with contaminated material covered either by hardstand or clean topsoil.

231. Clause (5) of Policy 23 applies to managing discharges from ports and other marine facilities:

(5) In managing discharges from ports and other marine facilities:

(a) require operators of ports and other marine facilities to take all practicable steps to avoid contamination of coastal waters, substrate, ecosystems and habitats that is more than minor;

(b) require that the disturbance or relocation of contaminated seabed material, other than by the movement of vessels, and the dumping or storage of dredged material does not result in significant adverse effects on water quality or the seabed, substrate, ecosystems or habitats;

…

232. Boat ramps are within the definition of a marine facility under the NZCPS. We consider that clause (5) applies to the discharges associated with operation of the boat ramp, and not the effects of disturbance of existing contaminated material during construction of the ramp. We are satisfied that the discharges associated with operation of the ramp would meet the requirements of clause (5).

233. In conclusion, we find that the proposal is not consistent with the NZCPS.

Tasman Resource Management Plan (TRMP)

234. We consider that the potential for disturbance and discharge of contaminated marine sediments into the CMA is significant and would lead to adverse effects with a high potential impact. We are not satisfied that this is able to be appropriately managed through the construction process and presents an unacceptable risk. This potentially leads to adverse off-site effects, which we find would be contrary to Objective 5.1 and its related policies.

235. We are not satisfied that avoidance, remedying or mitigation of contamination risk can be *"ensured"* in the context of Policy 5.1.3.1, or that adverse effects of discharge of contaminants beyond the property contrary to Policy 5.1.3.11 will not occur.

236. We agree that in this location close to the Māpua Wharf and Waterfront Park, that adverse effects on natural character of coastal land will not occur to the extent that they are overall inconsistent with Policy 5.1.3.12.

237. Given the existing modified environment of the Māpua Wharf precinct including Waterfront Park and Kite Park, and the relevant TRMP rules framework, we find that amenity values and visual and aesthetic character will be maintained in relation to the land based activities on Waterfront Park and Kite Park, and will be consistent with Objectives 5.2 and 5.3, and their related policies.

238. We consider that effects on lizard and oystercatcher habitat will be able to be managed appropriately, such that the Objective 10.1.2 relating to indigenous ecosystems is achieved.

239. Our findings as to traffic effects are that these can be adequately managed. We find that objective 11.1.2 is achieved as any adverse effects of the use on the transport system are able to be mitigated through appropriate conditions.

240. Overall, we consider that the ramp is able to be sited and operated such that safe navigation is not compromised, and Objective 20.1.2 is generally achieved. However safety risks do arise due to the design and location of the ramp in proximity to tidal currents and the mix of activities during periods of intense seasonal use, including wharf jumpers and swimmers. We find that this risk is such that aggravated risk to safe navigation may occur that would be inconsistent with Policy 20.1.3.1.

241. We find that the disturbance of contaminated marine sediments presets an unacceptable risk that is contrary to Objective 21.1 relating to natural character, and directly contrary to Policy 21.1.3.1 in that we are not satisfied that adverse effects from the discharge of contaminants can be avoided, remedied or mitigated.

242. The discharge of contaminants into the marine environment has the potential to adversely affect marine habitats and ecosystems, which we find would be inconsistent with Objective 21.2.2(c) and (e).

243. Our finding is that wider landscapes, seascapes and natural features of the Waimea Inlet will be maintained and that this will be consistent with Objective 21.3.2.

244. Whilst there is a functional need for any boat ramp to be located in the coastal marine area, we find that the adverse effects due to scale and site contamination (including consequential design constraints) are such that a functional need for a boat ramp as is proposed in this particular location is not established. This is inconsistent with Policy 21.6.3.1.

245. We are not satisfied that the potential discharge of contaminants into the CMA arising from the disturbance of contaminated marine sediments is able to be carried out in a way that maintains water quality in a way that would ensure that Objective 35.1.2 is achieved.

SECTION 104(1)(C) – OTHER MATTERS

246. The s.42A report refers to the Te Tau Ihu coastal marine area as a recognised Statutory Acknowledgement Area for all eight Te Tau Ihu iwi by the Ngāti Apa ki te Rā Tō, Ngāti Kuia and Rangitāne o Wairau Claims Settlement Act 2014, the Ngāti Koata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014, and the Ngāti Toa Rangatira Claims Settlement Act 2014.

247. Section 6.48 of the s.42A report addresses s.62(3) of the Marine and Coastal Area (Takutai Moana) Act (MCA). We agree that the appropriate consultation has been undertaken by the Trust.

248. Iwi management plans are relevant considerations under section 104(1)(c) of the RMA. The following Iwi Management Plans (IMP) have been lodged with Council:

- Ngāti Kōata Trust Iwi Management Plan 2002
- Ngāti Rārua Environmental Plan 2021
- Ngāti Tama Environmental Management Plan 2018
- Pakohe Management Plan 2015 Ngāti Kuia
- Te Ātiawa Iwi Environmental Management Plan 2014.

249. These are discussed in paragraphs 6.50-6.54 of the s.42A report and we adopt that discussion for our decision. These IMPs emphasise the importance of protecting cultural hertitage sites, the integrated nature of the environment, and also of the high value that tangata whenua place on the coastal environment.

250. We have referred to other relevant non-statutory documents in our discussion on effects, including the Masterplan and RMP, and do not discuss these further here. We have also had regard to the Waimea Inlet Management Strategy 20250 and Action Plan 2023-2026, which was developed by local people in collaboration with TDC, Nelson City Council, the Department of Conservation and Fish and Game.

SECTION 105 – MATTERS RELEVANT TO CERTAIN APPLICATIONS

251. Section 105(1) of the Act requires that we must, in addition to s104 considerations, have regard to:

a) *the nature of the discharge and the sensitivity of the environment to adverse effects;*
b) *the applicant's reasons for the proposed choice; and*
c) *any other possible alternative methods of discharge, including discharge into any other receiving environment.*

252. These matters have been addressed above in our consideration of the effects of the proposal.

SECTION 107 – RESTRICTIONS ON GRANT OF CERTAIN DISCHARGE PERMITS

253. The provisions of s107 apply to all applications for permits to discharge contaminants to fresh or coastal water. It therefore applies to the discharge of sediment to the CMA during construction of the boat ramp (RMA230258), and the discharge of stormwater into the CMA (RM230259).

254. Section 107(1) states that, unless the discharge falls under certain exceptions, we shall not grant a discharge permit:

(1) …

if, after reasonable mixing, the contaminant or water discharged (either by itself or in combination with the same, similar, or other contaminants or water), is likely to give rise to all or any of the following effects in the receiving waters:

(c) the production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials:
(d) any conspicuous change in the colour or visual clarity:
(e) any emission of objectionable odour:
(f) the rendering of fresh water unsuitable for consumption by farm animals:
(g) any significant adverse effects on aquatic life.

255. We found above that the effects of the discharge of stormwater to the CMA will be acceptable, and we do not consider that it would give rise to the effects listed in s.107(1)(c) to (g). We do not have this confidence for the discharge of sediment to the CMA during construction and, due to DDX concentrations well above guideline levels, we must assume that this discharge is likely to have significant adverse effects on aquatic life.

256. Irrespective of this, we may grant RMA230258 if the application meets the exceptions set out in subsections (2) and (2A). These are as follows:

> *(2) A consent authority may grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 or section 15A that may allow any of the effects described in subsection (1) if it is satisfied—*
> *(a) that exceptional circumstances justify the granting of the permit; or*
> *(b) that the discharge is of a temporary nature; or*
> *(c) that the discharge is associated with necessary maintenance work—*
> *and that it is consistent with the purpose of this Act to do so.*
>
> *(2A) A consent authority may grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 or 15A that may allow the effects described in subsection (1)(g) if the consent authority—*
> *(a) is satisfied that, at the time of granting, there are already effects described in subsection (1)(g) in the receiving waters; and*
> *(b) imposes conditions on the permit; and*
> *(c) is satisfied that those conditions will contribute to a reduction of the effects described in subsection (1)(g) over the duration of the permit.*

257. We do not consider the exceptional circumstances apply in this case, or that the discharge is of a sufficiently temporary nature. The discharge is also not associated with necessary maintenance work. Section 107(2A) was added to the Act after the application was lodged[7], however this change was directed to apply to all outstanding applications still to be decided. We do not consider that s.107(2A) applies in this instance, as the effects described in subsection (1)(g) are not currently occurring in the receiving waters.

258. We find that s.107 precludes us from granting consent for the discharge of sediment to the CMA during construction of the boat ramp.

PART 2 OF THE RMA

259. Section 104(1) of the RMA states that the matters to be considered must be done so subject to Part 2. We note that the Court of Appeal's decision in *RJ Davidson v Marlborough District Council*[8] clarifies how to approach the directive by section 104(1) to consider provisions subject to Part 2. It directs that there is no need to consider Part 2 unless there is invalidity, incompleteness or uncertainty of meaning in the statutory planning documents.

260. In this case, there is no conflict between objectives or policies that would benefit from consideration against Part 2. We have concluded that the proposal is not consistent with relevant statutory provisions. With reference to *Davidson*, we find that there would be no benefit to our evaluation of the proposal from consideration of Part 2.

[7] By section 24 of the Resource Management (Freshwater and Other Matters) Amendment Act 2024.
[8] [2018] NZCA 316

DECISION

261. Under the powers delegated to us by the Tasman District Council, for the reasons given above, pursuant to sections 104, 105 and 107 and subject to Part 2 of the Resource Management Act 1991, it is our decision to REFUSE (DECLINE) the following applications by the Māpua Community Boat Ramp Trust:

- RM230253, land use consent to construct and use a boat ramp and to erect signage in the Open Space Zone, Recreation Zone and the Coastal Environment Area
- RM230388, land use consent for carparking in association with the boat ramp and a public parking area in the Residential Zone.
- RM230254, land use consent under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS) for soil disturbance.
- RM230255, land disturbance within the Coastal Environment Area for construction of the boat ramp and associated infrastructure.
- RM230256, disturbance of the CMA in association with construction of the boat ramp.
- RM230257, occupation of the CMA for the purpose of constructing and operating a boat ramp.
- RM230258, discharge of sediment to the CMA during construction of the boat ramp.
- RM230259, discharge of stormwater into the CMA.

Dated at Christchurch this 26th day of August 2025

Bianca Sullivan (Chair)
Independent Hearing Commissioners

Graham Taylor

APPENDIX 1: APPLICANT'S REPRESENTATION AND APPEARANCES

Mr Nigel McFadden – Counsel for the Applicant

Mr Andrew Butler – Commodore of the Māpua Boat Club

Mr Gary Stevenson – Principal Civil Engineer, Davis Ogilvie & Partners

Mr Rory Langbridge – Senior Landscape Architect, RMM Landscape Architects

Mr Jim Dilley – Harbourmaster and maritime consultant

Mr Gary Teear – Director, OCEL (Offshore & Coastal Engineering Ltd)

Mr Mark Morris – Senior Planner, Davis Ogilvie & Partners

Mr Gary Clark – Director, Traffic Concepts Limited

Mr Gareth Oddy – Technical Director – Environmental Scientist, Davis Ogilvie & Partners

Mr Ben Robertson – Principal Ecologist/Director, Robertson Environmental Limited

Mr Jon Farren – Principal, Marshall Day Acoustics (presenting online)

APPENDIX 2: SUBMITTERS WHO WERE HEARD

<table>
<tr><th colspan="2">TUESDAY 26 November 2024</th></tr>
<tr><th colspan="2">Supporting Submitters</th></tr>
<tr><td>Margot Syms & Peter Syms (3)
John Leydon (142)
Michael Weller (115)
Wayne Daniel (30)
Trevor Marshall (311)
Paul Harper (43)
Martyn Barlow (49)</td><td>Alan Field (54)
Māpua Boat Club (Katrina Ballantyne) (132)
Timothy Robinson (181)
Marion Satherley (327)
Colin Walker (72)
Gordon & Gaye Waide (298)</td></tr>
<tr><th colspan="2">Neutral Submitters</th></tr>
<tr><td colspan="2">Ornithological Society NZ (169) - Expert – D Melville
Te Runanga o Ngati Rarua (145)</td></tr>
<tr><th colspan="2">Opposing Submitters</th></tr>
<tr><td>Ngati Tama Ki Te Waipounamu Trust (87)
Te Atiawa o Te Waka a Maui Trust (326)
Paul Bensemann (137)
Ari Fon (166)
Fiona Bibby Smith (307)
Friends of Māpua Waterfront
- Legal submissions (S Gepp)</td><td>Friends of Māpua Waterfront (continued)
- Experts: G Ussher, J Easton & J Benden
- Submitters
Gordon and Sue Adamson (35)
Maria Fillary (167)
Nicola Aerakis (107)
Michael Ashby (135)</td></tr>
<tr><th colspan="2">WEDNESDAY 27 November 2024</th></tr>
<tr><th colspan="2">Opposing Submitters – Continued</th></tr>
<tr><td>Rebecca Patchett, Adrienne Taylor & Anna Crosbie (117)
Lesley McIntyre (310)
Ronald Oliver & Fiona Oliver (99)
Bruce Gilkison (168)
Derek Trew (309)
Waimea Inlet Forum (Elspeth Collier) (146)
Amy Deimel (60)
Lucy Clark (119)
Bruno Lemke (120)
Angela Fon (161)
David Young (143)
Helen Lane (173)
Peter Walker (301)
Franceska Banga (92)</td><td>Peter Paterson (306) / Jeff Quartly (15) (presented by M Ashby)
Friends of Māpua Waterfront (continued)
- Submitters -
Kim Bowie and Elspeth Collier (175)
Judith and David Mitchell (102)
David Martin (154)
Rene Kampman (134)
Elizabeth Ussher (14)
Mitchell-Devereux & Cheva-Isarakul Families (153)
Gillian Pollock (176)
Royal Forest & Bird Protection Society of NZ Inc (128)
David Kemp (80) – comments tabled</td></tr>
<tr><th colspan="2">Supporting Submitters (continued)</th></tr>
<tr><td>Clare Kininmonth (329)</td><td></td></tr>
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