

**BEFORE THE ENVIRONMENT COURT
| MUA | TE KOOTI TAIAO O AOTEAROA
IN WELLINGTON**

ENV-2019-WLG-

IN THE MATTER

of the Resource
Management Act 1991
(RMA)

AND

IN THE MATTER

of an appeal under
clause 14 of Schedule 1
of the RMA

BETWEEN

**PORIRUA CITY
COUNCIL**

Appellant

AND

**WELLINGTON
REGIONAL COUNCIL**

Respondent

**AMENDED NOTICE OF APPEAL TO THE ENVIRONMENT COURT IN RESPECT OF
DECISIONS ON THE PROPOSED NATURAL RESOURCES PLAN FOR THE
WELLINGTON REGION**

~~18 September 2019~~

~~17 February 2020~~

15 June 2020

 **Simpson Grierson**
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To: The Registrar
Environment Court
Wellington

1. Porirua City Council (**the Council**) appeals decisions of the Wellington Regional Council (known as Greater Wellington and referred to as **GWRC**) on the Proposed Natural Resources Plan for the Wellington Region (**Proposed Plan**).
2. The Council made a submission and further submission on the Proposed Plan.
3. The Council is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 (**RMA**).
4. The Council received notice of the decision on 31 July 2019.
5. The decision was made by GWRC.
6. The general reasons for the Council's appeal are that in the absence of the relief sought, the decisions made by GWRC:
 - (a) Will not promote the sustainable management of resources, and will not achieve the purpose of the RMA;
 - (b) Are contrary to Part 2 and other provisions of the RMA;
 - (c) Will not meet the reasonably foreseeable needs of future generations;
 - (d) Will not promote the efficient use and development of natural and physical resources;
 - (e) Will not give effect to the National Policy Statement on Urban Development Capacity or the New Zealand Coastal Policy Statement;
 - (f) Will not give effect to the Regional Policy Statement for the Wellington Region; and

- (g) Do not represent the most appropriate way of exercising GWRC's functions, having regard to the efficiency and effectiveness of other reasonably practicable options, and are therefore not appropriate in terms of section 32 and other provisions of the RMA.

7. In addition to the general reasons set out in paragraph 6, and the specific reasons set out in **Appendix A**, the Council has appealed the decisions by GWRC for the following reasons:

- (a) There is a lack of clarity in drafting and interpretation of rules, including the approach that should be taken if there are conflicting provisions which apply in respect of a site (in particular in relation to sites of significance).
- (b) Although the Council is broadly supportive of the goals and objectives the Proposed Plan is seeking to achieve, and those goals and objectives are in line with those the Council is pursuing through its own planning and strategy documents, it considers that the policy and rule frameworks set out in the Proposed Plan are highly regulatory. This level of regulation is considered to unnecessarily constrain strategic urban growth and will have implications for the Council as an infrastructure provider.
- (c) The Proposed Plan must recognise the importance of, and provide for, the operation, maintenance and upgrade of infrastructure. This includes appropriate consideration of the potential for other development to affect infrastructure. Accordingly, the Council is seeking amendments to ensure that infrastructure is appropriately acknowledged and is not unjustifiably constrained. Although the benefits of infrastructure are acknowledged in the Proposed Plan, the provisions (in particular the rules) appear to focus on the adverse effects of the operation, maintenance and upgrade of key infrastructure. The Council therefore seeks amendments to recognise the importance, and benefits of infrastructure and the need for its ongoing management and maintenance
- (d) While the Council appreciates that the focus of the Proposed Plan is on the natural environment, the Council seeks that existing urban

development, and strategic urban growth is recognised and provided for. This will include acknowledging the benefits of use and development of the urban environment, and enabling activities necessary to support future urban development (e.g. earthworks, stream and waterway diversion and vegetation clearance).

- (e) Further, the Council has recently released a draft District Plan for consultation, and anticipates notifying a proposed District Plan in early 2020. Through that process the Council will give effect to the NPS-UDC, and as part of that process has recently identified areas within its district suitable for urban growth. The Council is therefore seeking to ensure that the strategic urban growth and development that it has assessed as being appropriate will not be unduly inhibited by the Proposed Plan, and can be supported with appropriate infrastructure.
 - (f) In principle the Council supports protection of sites which have been identified as having significant values. In particular, the recognition of Te Awarua-o-Porirua and Pauatahanui Inlet is consistent with the Council's strategic priority for "a healthy and protected harbour and catchment". However, given the extent of this area, and the close proximity of existing urban development, again some flexibility is sought in the Proposed Plan to enable necessary work to manage and maintain infrastructure, and to provide for existing urban development and future urban growth areas. The Council is therefore seeking amendments that will remove the significant regulatory burden that the rule framework may create in respect of some sites of significance.
 - (g) The Council considers that the Proposed Plan should provide for appropriate recreational use of sites of significance, and provision of access to and along the coastal marine area, lakes and rivers.
- 8.** For completeness, the Council opposes any alternative provisions contrary to achieving the above outcomes, and seeks any alternative, consequential or additional relief, to that set out in this appeal, required to give effect to the matters raised generally in this appeal and/or its submission.

9. The following documents are attached to this notice:
- (a) **Appendix A** – specific relief sought by the Council;
 - (b) **Appendix B** - a copy of the Council’s submission and further submission;
 - (c) **Appendix C** - a list of names and addresses of persons to be served with a copy of this notice.
10. For completeness, in accordance with the Court’s decision on GWRC’s application for waivers (*Re Wellington Regional Council* [2019] NZEnvC 126) the Council has not attached a copy of the Proposed Plan to this appeal.

~~DATED~~ AMMENDED this ~~18th day of September 2019~~ ~~17th day of February 2020~~ 15th day of June 2020



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Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal. To become a party to the appeal, you must,—

- (a) within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- (b) within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the appellant's submission, or the decision appealed. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

Appendix A: Relief sought by Porirua City Council

Appeal point	Proposed Plan reference	Relief sought	Reasons for relief
1.	Definition of “catchment based flood and erosion risk management activities”	Amend the definition to include flood and/or erosion risk management structures that are not included in a river management scheme or flood plain management plan, and clarify that those terms are intended to include structures that are located in the coastal marine area.	<p>As currently drafted the definition will capture local authority erosion management structures in relation to rivers but not in the coastal marine area as the definition only applies to activities that are included in a river management scheme or flood plain management plan. The Council seeks that Policies P15, 16 and 104 also apply to structures in the coastal marine area.</p> <p>The Proposed Plan does not require the preparation of either a “river management scheme” or a “flood plain management plan”, and neither term is defined. This is likely to create confusion for users of the Proposed Plan. Furthermore, it is unclear as to the process the Council would need to follow if it sought to put in place either a scheme or management plan and what this would practically entail.</p> <p>As it is unclear exactly what activities will be captured by this definition, it is unclear whether small scale activities undertaken by the Council on its structures (in particular those in the coastal marine area) will be captured by it. It is also unclear the extent to which the policies noted above will support and protect the Council’s assets.</p> <p>The Council seeks that the provisions be introduced to clarify how a “river management scheme” and “flood plain management plan” are to be prepared (including the information they should contain), and adopted. As an alternative the Council seeks that the terms “river</p>

Appeal point	Proposed Plan reference	Relief sought	Reasons for relief
			management scheme” and “flood plain management plan” be defined.
2.	Insert new provisions or a new definition regarding “river management scheme”	Insert a definition for the term “river management scheme”.	Refer to the discussion regarding the definition of “catchment based flood and erosion risk management activities”.
3.	Insert new provisions or a new definition regarding “flood plain management plan”	Insert a definition for the term “flood plain management plan”.	Refer to the discussion regarding the definition of “catchment based flood and erosion risk management activities”.
4.	New definition of “contaminant”	Insert a definition for the term “contaminant”.	The term contaminant is used in the Proposed Plan, however is not defined. Although there are examples of inclusions for what is intended to be captured by this term (for example refer to 5.5.4(a)) there is uncertainty in exactly how it will be interpreted when the plan provisions are applied. Without defining this term in the Proposed Plan, the RMA definition of “contaminant” is likely to be read in, this is not considered to be appropriate given the broad framing of that definition.
5.	Definition of “efficient allocation”	Delete the definition of “efficient allocation”.	This term does not appear to be used in the Proposed Plan.
6.	Definition of “existing discharge”	Amend the definition of “existing discharge” as follows: <i>“In the context of wastewater discharged into fresh or coastal water from a wastewater treatment plant or a wastewater network means;</i>	The words “heavy rainfall event” are uncertain and potentially confusing, their deletion will result in more certainty in the application of this definition in particular in relation to Rule R61. To ensure that the wastewater network is able to continue to operate it is considered

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		<p>a) a discharge already authorised by an existing resource consent at the time of application for a new resource consent relating to the same or similar activity, and / or</p> <p>b) discharges from previously occurring heavy rainfall event overflows from a wastewater network.”</p>	appropriate that overflows be included within this definition.
7.	Definition of “good management practice”	Delete the definition of “good management practice” and replace the references to it within the Proposed Plan with appropriate guidance or incorporate appropriate guidelines by reference.	<p>The term “good management practice” is used throughout the policies in the Proposed Plan. The Council has concerns with the use of this term due to its uncertainty, as what is considered to be ‘good management practice’ will change over time. Furthermore, what is considered to be ‘good management practice’ for an industry will not necessarily be best practice (or good practice) in relation to management of environmental effects.</p> <p>As currently drafted the definition refers to “<i>achieving the desired performance while providing for desired environmental outcomes</i>”. Given the desired outcomes in many circumstances would be avoidance of effects this definition would appear to be unworkable.</p>
8.	Definition of “noise sensitive activities”	<p>Amend the definition of “noise sensitive activities” as follows:</p> <p>“Any residential activity, any early childhood education centre, or any hotel, motel or other accommodation</p>	Currently the definition refers to the term “other accommodation activity”, while this may include hospitals, or other such facilities used for night time sleeping, a further clarification is sought to assist plan users.

Appeal point	Proposed Plan	Relief sought	Reasons for relief
		activity where the facility is used for night time sleeping including hospitals."	
9.	Definition of "property"	Amend the definition of "property" as follows: <i>"Any contiguous area of land including adjacent land separated by a road or river, held in one ownership and may include one or more certificates records of title. <u>Except that in the case of land subdivided under the Unit Title Act 1972 or 2010 or a cross lease system, a property is the whole of the land subject to the unit development or cross lease.</u>"</i>	The definition should clarify how the term "property" is intended to apply in relation to cross lease and unit titles to avoid unintended consequences e.g. if a point source discharge applies to a "property" without the suggested amendment it could be argued that the rule would not apply to a site that had a multiple ownership structure.
10.	Definition of "regionally significant infrastructure"	Amend the definition of "regionally significant infrastructure" as follows: <i>"includes:</i> <ul style="list-style-type: none"> • <i>pipelines for the distribution or transmission of natural or manufactured gas or petroleum</i> • <i>strategic facilities to the telecommunication network, as defined in section 5 of the Telecommunications Act 2001</i> • <i>strategic facilities to the radio communications network, as defined in section 2(1) of the Radio Communications Act 1989</i> • <i>the National grid</i> 	The Council considers that municipal landfills such as Spicer Landfill should be treated as being "regionally significant infrastructure" as it considers that the services that it provides are akin to the other infrastructure included on the list. Neither section in the legislation referenced in related to telecommunications and radio communications facilities specify which assets are "strategic", it is therefore unclear how this will be established.

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		<ul style="list-style-type: none"> • <i>facilities for the generation and/or transmission of electricity where it is supplied to the National grid and/or the local distribution network., This excludes supply within the local distribution network.</i> • <i>the local authority water supply network (including intake structures) and water treatments plants</i> • <i>the local authority wastewater and stormwater networks, and, systems, including treatment plants and storage and discharge facilities</i> • <i>the Strategic Transport Network</i> • <i>Wellington City bus terminal and Wellington Railway Station terminus</i> • <i>Wellington International Airport</i> • <i>Masterton Hood Aerodrome</i> • <i>Kapiti Coast Airport</i> • <i><u>Municipal landfills.</u></i> <p>Clarify, within the definition, which telecommunications and radio communications facilities are considered to be strategic.</p>	
11.	Definition of “stormwater network”	Amend the definition of “stormwater network” as follows:	As drafted, the definition of “stormwater network” will require the Council to seek resource consent for the maintenance of kerb and channel, which are roading devices used to separate the carriageway from the

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		<p>“The network of devices designed to capture, detain, treat, transport and discharge stormwater, including but not limited to kerbs, intake structures, pipes, soak pits, sumps, swales and constructed ponds and wetlands, and that serves more than one property. <u>But excludes kerb and channel.</u>”</p>	<p>footpath. This is considered to be unduly onerous and will create issues for the internal management of the Council’s roading assets.</p>
12.	Definition of “upgrade”	<p>Amend the definition of “upgrade” as follows:</p> <p>“The replacement or alteration of an <u>Use and development to bring existing structures or facilities facility up to current standards or to improve the functional characteristics of structures or facilities, provided the upgrading itself does not give rise to any significant adverse effects on the environment and provided that the effects of the activity are the same or similar in character, intensity and scale as the existing structure or facility and activity.</u>”</p>	<p>As currently drafted the definition of “upgrade” includes a number of subjective terms that would be hard to assess. The amendments to the definition sought by the Council focus the assessment of the upgrade on the adverse effects of the activity which is considered to be the more appropriate analysis rather than focusing on whether the changes result in improvements of functional characteristics, or are required to meet “current standards”.</p>
13.	Definition of “vegetation clearance”	<p>Amend the definition of “vegetation clearance” as follows:</p> <p>“The clearance or destruction of woody vegetation (exotic or native) by mechanical or chemical means, including felling vegetation, spraying of vegetation by hand or aerial means, hand clearance, and the burning of vegetation.</p>	<p>It is not clear why vegetation clearance is only in relation to “woody” vegetation. The Council seeks the removal of that requirement for clarity in application of the provisions.</p>

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		<p>Vegetation clearance does not include: (a) any vegetation clearance, tree removal, or trimming of vegetation associated with the Electricity (Hazards from Trees) Regulations 2003, and (b) any vegetation clearance or vegetation disturbance covered by the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017.”</p>	
14.	Definition of “vegetative bank edge protection”	<p>Amend the definition of “vegetative bank edge protection” as follows:</p> <p><i>“The use of anchored willows, or poplars or other species which are able to maintain an alignment of a river bank and prevent erosion”</i></p>	<p>This definition currently only refers to anchored willow and poplars which would exclude the use of other species that may be appropriate to stabilise banks for erosion protection. The Council is particularly concerned that here is no provision for the use of other species that would fulfil the same function.</p>
15.	Objective O13	<p>Amend Objective O13 as follows:</p> <p><i>“Significant mineral resources and the ongoing operation, maintenance and upgrade of regionally significant infrastructure and renewable energy generation activities in the coastal marine area, wetlands and beds of rivers and lakes are protected from incompatible use and development occurring under, over, or adjacent to the infrastructure or activity.”</i></p>	<p>Policies 7 and 8 of the Regional Policy Statement (RPS) require recognition for and protection of regionally significant infrastructure. The amendment proposed by the Council is considered to meet the direction in the RPS.</p>

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16.	Objective O32	Amend Objective O32 as follows: <i>“Outstanding natural features and landscapes (including seascapes) of the coastal marine area, rivers, lakes and their margins and natural wetlands are protected from inappropriate use and development”</i>	This amendment is sought for clarification and to ensure consistency with Policy P48 which includes the language which the Council seeks to be inserted into objective O32.
17.	Insert new Policy after Policy P3: Precautionary Approach	Add the following policy to sit after Policy P3: <i>“Use and development activities within the coastal environment are to be designed and managed taking into account the potential effects of climate change, including sea level rise, over 100 years.”</i>	The Council seeks the addition of an additional policy to give effect to Policy 3 of the New Zealand Coastal Policy Statement which requires that a precautionary approach be adopted in relation to the use and management of coastal resources which are potentially vulnerable to effects from climate change.
18.	Insert new Policy in section 4.2 of the Proposed Plan	Insert the following Policy into section 4.2: <i>Policy [x]</i> <i>The benefits of existing urban areas, identified urban growth areas and infrastructure are recognised with particular acknowledgement of their need to enable people and communities to provide for their wellbeing. Ensure that the ongoing use and development of existing urban areas, identified urban growth areas and infrastructure is appropriately enabled and provided for.</i>	As discussed in the main body of this appeal, the Proposed Plan should adequately acknowledge the use of land within the Wellington Region for urban development, and the need to enable its ongoing use for urban development into the future.

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19.	Policy P7: Uses of Land and Water	<p>Re-insert Policy P7 as follows:</p> <p><u>“Policy P7: Uses of land and water</u> <u>The cultural, social and economic benefits of using land and water for:</u></p> <ul style="list-style-type: none"> <u>(a) aquaculture, and</u> <u>(b) treatment, dilution, management, and disposal of wastewater and stormwater, and</u> <u>(c) industrial processes and commercial uses associated with the potable water supply network, and</u> <u>(d) community and domestic water supply, and</u> <u>(e) electricity generation, and</u> <u>(f) food production and harvesting, and</u> <u>(g) gravel extraction from rivers for flood protection and control purposes, and</u> <u>(h) irrigation and stock water, and</u> <u>(i) firefighting, and</u> <u>(j) contact recreation and Māori customary use, and</u> <u>(k) transport along, and access to, water bodies</u> <p><u>shall be recognised.”</u></p>	<p>Policy P7 sought to recognise uses of land and water for activities required to enable, and support urban environments. As set out in the main body of the appeal, the Council considers that the Proposed Plan does not sufficiently recognise or provide for the importance of urban land use, including the infrastructure required to support such land use.</p>
20.	Policy P12: Benefits of regionally significant infrastructure and	Amend Policy P12 as follows:	<p>The Council supported the recognition given to the benefits of regionally significant infrastructure and renewable energy generation activities in the notified version of the Proposed Plan. The amendment to Policy P12(d) appears to limit the recognition given to</p>

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	renewable electricity generation facilities	<p><i>The benefits of regionally significant infrastructure and renewable energy generation activities are recognised by having regard to:</i></p> <p>...</p> <p><i>(d) the functional need and operational requirements associated with developing, operating, maintaining and upgrading regionally significant infrastructure and renewable energy generation activities, including infrastructure and activities located in the coastal marine area and the beds of lakes and rivers.</i></p>	<p>the functional needs regarding the location of infrastructure and activities to only be in relation to activities located in the coastal marine area or the beds of lakes and rivers – the Council considers that this recognition should be given outside of those areas also.</p>
21.	Policy P24: Assessing outstanding natural character	<p>Amend Policy P24 as follows:</p> <p><i>Areas of outstanding natural character in the coastal marine area, lakes and rivers and their margins and natural wetlands, will be preserved by:</i></p> <p><i>(a) identifying areas of outstanding natural and high natural character within the region, and</i></p> <p><i>(b) avoiding, or if it is not practicable mitigating or offsetting, adverse effects of activities on natural character in areas of the coastal marine area with outstanding natural character, and</i></p> <p><i>(c) avoiding significant adverse effects and avoiding, remedying or mitigating other adverse effects of activities on all other areas of natural character.</i></p>	<p>The Council considers that (b) as currently drafted is highly restrictive and seeks that a hierarchy be included in the policy to enable activities with adverse environmental effects on natural character in areas of the coastal marine area with outstanding natural character in some circumstances. As currently drafted even an activity with very minor adverse effects would not meet the policy. This may have unintended consequences in some circumstances. The Council notes that this policy, along with the rule framework that flow from it, may unduly restrict/prevent some of its necessary activities in the coastal marine area, for example erosion protection, and pump sheds.</p> <p>Although Method M24 states that the Regional Council will work with city and district council to identify areas with outstanding/high natural character in the coastal environment, and to produce a regional list of these</p>

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		<p><i>Note</i> <i>Method M24(b) applies to clause (a).</i></p> <p>Include further provisions which identify how “outstanding” and “high” natural character are to be identified.</p>	<p>features, landscapes and areas for inclusion in the Plan by plan change or variation. Currently this does not form part of the Proposed Plan, and until such a list is incorporated into the Plan the Council considers that the meaning of this policy, and therefore its application, will be open to interpretation.</p>
22.	Policy P34: Fish passage	<p>Amend Policy P34 as follows:</p> <p><i>The construction or creation of new barriers to the passage of fish and koura species shall be avoided, <u>or mitigated where avoidance is not practicable.</u> This policy does not apply where the barrier except where this is required for the protection of indigenous fish and koura populations.</i></p>	<p>Currently this policy is very restrictive and does not take into account situations where fish passage may be impeded. This may include emergency works where a new temporary barrier is required for a limited amount of time, as acknowledged at 5.5.2 and 5.5.4 of the Proposed Plan. Read literally the policy could apply to any barrier constructed and could include a stream relocation where alternative fish passage was provided.</p>
23.	Policy P39: Adverse effects on outstanding water bodies	<p>Amend Policy P39 as follows:</p> <p><i>The adverse effects of use and development on outstanding water bodies and their significant values identified in Schedule A (outstanding water bodies) shall be avoided, <u>or mitigated where avoidance is not practicable.</u></i></p>	<p>The Pauatahanui Inlet Tidal Flats and Saltmarsh are identified in Schedule A as being “wetlands with outstanding indigenous biodiversity values”. The mapping which shows the wide extent of both of those areas. While the Council agrees that the Pauatahanui Inlet has outstanding natural values, significant urban development is located adjoining and in close proximity to the area.</p> <p>The Council is therefore concerned that Policy P39 may unduly restrict necessary activities which it undertakes within the mapped area, in particular this includes</p>

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			provision and maintenance of infrastructure and erosion protection.
24.	Policy P40: Ecosystems and habitats with significant indigenous biodiversity values	<p>Amend Policy P40 as follows:</p> <p><i>Protect and restore the following ecosystems and habitats with significant indigenous biodiversity values from inappropriate development, and enable their restoration:</i></p> <ul style="list-style-type: none"> <i>(a) the rivers and lakes with significant indigenous ecosystems identified in Schedule F1 (rivers/lakes), and</i> <i>(b) the habitats for indigenous birds identified in Schedule F2 (bird habitats), and</i> <i>(c) significant natural wetlands, including the significant natural wetlands identified in Schedule F3 (identified significant natural wetlands), and</i> <i>(d) the ecosystems and habitat-types with significant indigenous biodiversity values in the coastal marine area identified in Schedule F4 (coastal sites) and Schedule F5 (coastal habitats).</i> <p>Note</p> <p><u><i>This policy is to be read in conjunction with Policy P41.</i></u></p> <p><i>All natural wetlands in the Wellington Region are considered to be significant natural wetlands as they</i></p>	<p>While the Council supports Policy P40 in principle, again it considers that the phrase ‘protect and restore’ lacks necessary flexibility to enable activities to be carried out in ecosystems and habitats with significant indigenous biodiversity values which may be required in limited circumstances. As with Policy P39, the Council has particular concerns with how this policy will apply to activities it may wish to undertake in the Pauatahanui Inlet which is identified in Schedules F2, F4 and F5.</p> <p>As currently drafted it is not clear how Policies P40 and P41 are intended to work together. This should be reframed so that there is clarity in their application, Policy P41 relates to management of effects in ecosystems and habitats with significant indigenous biodiversity values, the Council seeks that the ability to carry out certain activities within such areas be acknowledged in Policy P40.</p>

Appeal point	Proposed Plan	Relief sought	Reasons for relief
		<p><i>meet at least two of the criteria listed in Policy 23 of the Regional Policy Statement 2013 for identifying indigenous ecosystems and habitats with significant indigenous biodiversity values; being representativeness and rarity.</i></p>	
25.	<p>Policy P41: Managing adverse effects on ecosystems and habitats with significant indigenous biodiversity values</p>	<p>Amend Policy P41 as follows:</p> <p><i>In order to protect the ecosystems and habitats with significant indigenous biodiversity values identified in Policy P40, in the first instance activities <u>(excluding passive recreation activities)</u> that risk causing adverse effects on the values of a significant site, other than activities carried out in accordance with a wetland restoration management plan, shall avoid these ecosystems and habitats.</i></p> <p><i>If the ecosystem or habitat cannot be avoided, (except for those ecosystems and habitats identified in Policy P40 (b), (c) and (d) that are identified and managed by Policy P39A(a)), the adverse effects of activities shall be managed by:</i></p> <p>(a) <i>avoiding more than minor adverse effects, and</i></p> <p>(b) <i>where more than minor adverse effects cannot be avoided, minimising them, and</i></p>	<p>As currently drafted Policy P41 has the potential to capture passive recreational activities such as walking, running of beach clean ups and would require that those activities be avoided if they could be undertaken in another area (which these activities technically could). This type of activity should not need to be incorporated into a restoration management plan, nor does it seem like a good fit for those activities to be referenced there.</p> <p>If a definition of 'passive recreation activities' is considered necessary then the following is sought:</p> <p><u><i>Outdoor recreation activities which require minimal equipment such as nature observation, walking, tramping, running.</i></u></p>

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		<p>(c) where more than minor adverse effects cannot be avoided and/or minimised, they are remedied, and</p> <p>(d) where residual adverse effects remain the use of biodiversity offsets may be proposed or agreed by the applicant.</p> <p><i>Proposals for biodiversity mitigation and biodiversity offsetting will be assessed against the principles listed in Schedule G1 (biodiversity mitigation) and Schedule G2 (biodiversity offsetting). A precautionary approach shall be used when assessing the potential for adverse effects on ecosystems and habitats with significant indigenous biodiversity values.</i></p> <p><i>Where more than minor adverse effects on ecosystems and habitats with significant indigenous biodiversity values identified in Policy P40 cannot be avoided, remedied, mitigated or redressed through biodiversity offsets, the activity is inappropriate.</i></p>	
26.	Policy P41A (formerly P33) Effects on the spawning and migration of indigenous fish species	<p>Amend Policy P41A as follows:</p> <p>Avoid <u>Reduce</u> more than minor adverse effects of activities on indigenous fish species known to be present in any water body identified in Schedule F1 (rivers/lakes) as habitat for indigenous fish species or Schedule F1b (inanga spawning habitats), <u>to a practical minimum</u> during known spawning and migration times identified in</p>	As discussed in relation to the relevant rules it will not always be possible to avoid all effects on indigenous fish habitat. The amendment proposed reflects a more realistic and achievable approach given that some works (e.g. emergency works) may need to be undertaken during fish spawning and migration times.

Appeal point	Proposed Plan	Relief sought	Reasons for relief
		<p><i>Schedule F1a (fish spawning/migration). These activities may include the following:</i></p> <ul style="list-style-type: none"> <i>(a) discharges of contaminants, including sediment, and</i> <i>(b) disturbance of the bed or banks that would affect spawning habitat at peak times of the year, and</i> <i>(c) damming, diversion or taking of water which leads to loss of flow or which makes the river impassable to migrating indigenous fish.</i> 	
27.	Policy P48:Protection of natural features and landscapes	<p>Amend Policy P48 as follows:</p> <p><i>The natural features and landscapes (including seascesapes) of the coastal marine area, rivers, lakes and their margins and natural wetlands shall be protected from inappropriate use and development by:</i></p> <ul style="list-style-type: none"> <i>(a) identifying outstanding natural features and landscapes within the region, and</i> <i>(b) <u>avoiding or if it is not practicable mitigating or offsetting</u>, adverse effects of activities on outstanding natural features and landscapes, and</i> <i>(c) avoiding significant adverse effects and avoiding, remedying or mitigating</i> 	<p>The policies have tended to differentiate between “significant adverse effects” and “adverse effects” with a number of policies requiring avoidance of the former. There is likely to be debate over the scale of effects in some circumstances which is likely to be a subjective assessment.</p> <p>The Council considers that this policy has the potential to be highly restrictive for potential urban development no development would ever be possible in an outstanding natural landscape or feature if a non-complying activity resource consent was required and the effects are assessed as being more than minor – even if those effects could be adequately mitigated or offset.</p>

Appeal point	Proposed Plan	Relief sought	Reasons for relief
		<p><i>other adverse effects of activities on all other natural features and landscapes.</i></p> <p>Note Method M24(a) applies to clause (a).</p>	
28.	Policy P73: Minimising adverse effects of stormwater discharges	<p>Amend Policy P73 as follows:</p> <p>The adverse effects scale of stormwater discharges shall be minimised to the smallest amount reasonably practicable, including by:</p> <p>(a) Using the best practicable option good management practice, and</p> <p>(b) taking a source control and treatment train approach to new activities and land uses, and</p> <p>(c) <u>where appropriate, implementing water sensitive urban design in new subdivision and development, and</u></p> <p>(d) progressively improving existing stormwater, wastewater, road and other public infrastructure, including during routine maintenance and upgrade.</p> <p><u>Note: non-regulatory methods are of particular importance in achieving this policy given the interrelated nature of the stormwater network.</u></p>	<p>The Council seeks amendments to this policy to acknowledge that there are a wide range of factors that contribute to the adverse effects on receiving environments, which include but are not limited to stormwater. In particular, the effects of stormwater discharges are generally the greatest after high rainfall events, during which there is an increased number of contaminants (in addition to stormwater) which may have an effect. Given the difficulties with attributing the source of contaminants, and adverse effects in such circumstances an amendment is proposed to seek that stormwater discharges be minimised to the extent practicable. The Council seeks the deletion of the words “to the smallest amount reasonably practicable” as this is already required through the requirement to “minimise” discharges.</p> <p>As stated in relation to the definition on “good management practice” this term is considered to lack certainty in its application and therefore should be deleted and replaced with a reference to the “best practicable option” which has an understood meaning in the RMA context.</p>

Appeal point	Proposed Plan reference	Relief sought	Reasons for relief
			Given the topography in Porirua it will not always be possible for new development to implement water sensitive urban design, it is therefore considered appropriate to amend (c) as an acknowledgement that this will not always be able to be achieved.
29.	Policy P75: Second-stage local authority network consents	Amend Policy P75 to either delete the reference to “stormwater management plans”.	Policy P75(b) refers to developing “catchment-specific stormwater management plans or other methods to identify and prioritise actions in accordance with any relevant objectives identified in the Plan”. The term “stormwater management plan” is not defined, and no guidance is provided within the Proposed Plan as to what such a plan would entail. Schedule N sets out in detail the requirements of a “stormwater management strategy”. Those strategies are considered to be a more appropriate way to develop a comprehensive approach in relation to the strategic management of stormwater.
30.	Policy P90: Discharges of hazardous substances	Amend Policy P90 as follows: <i>The adverse effects of the discharge of hazardous substances (excluding a discharge subject to Policy P89) to land, fresh water, including groundwater, coastal water or air shall be avoided <u>or mitigated where avoidance is not practicable.</u></i>	Avoidance of any effects of the discharge of hazardous substances is not considered to be possible in all circumstances. The definition of “hazardous substances” is very broad and has the potential to trigger a large number of unintended discharges which could not meet an “avoidance” policy framework.
31.	Policy P102: Reclamation or	That Policy P102 is given effect to throughout the rest of the Plan, in particular in the rules.	Although Policy P102 recognises that reclamation may be required in certain circumstances, the rule framework in the Proposed Plan does not reflect this

Appeal point	Proposed Plan reference	Relief sought	Reasons for relief
	drainage of the beds of lakes and rivers		policy intent. While the Council supports this provision, it considers that the Proposed Plan should be amended to give effect to it.
32.	Policy P138: Structures in sites with significant values	<p>Amend Policy P138 as follows:</p> <p><i>New structures, replacement of a structure or any addition or alteration to a structure in the coastal marine area in a site identified in Schedule C (mana whenua), Schedule F4 (coastal sites), Schedule F5 (coastal habitats) and Schedule J (geological features) shall be avoided, except where:</i></p> <p><i>(a) the new structure, replacement of the structure or any addition or alteration to the structure is for the specific purpose of providing protection for the values identified in Schedule C (mana whenua), Schedule F4 (coastal sites), Schedule F5 (coastal habitats) or Schedule J (geological features), or</i></p> <p><i>(b) the structure is for educational, scientific or research purposes that will enhance the understanding and long-term protection of the coastal marine area, or</i></p> <p><i>(c) the structure will provide for navigational safety, or</i></p>	<p>The exemptions should include acknowledgement of the need to provide for the recreational values and public access to the sites listed, for example the Pauatahanui Inlet in Porirua.</p> <p>There are a number of structures that are used in the coastal marine area used for recreation. The Council needs the ability to upgrade and replace, and this ability needs to be recognised.</p>

Appeal point	Proposed Plan	Relief sought	Reasons for relief
		<p><i>(d) it is necessary to enable the development, operation, maintenance and upgrade of regionally significant infrastructure,</i></p> <p><i>(e) <u>the structure is required to protect or enhance recreational values or public access;</u></i></p> <p><i>and in respect of (a) to (e)(d):</i></p> <p><i>(e)(f) there are no practicable alternative locations or methods of providing for the activity.</i></p>	
33.	<p>Rule R40: Discharge of other fumigants — controlled activity</p>	<p>Amend Rule R40 as follows:</p> <p><i>The discharge of fumigants in an area that is not listed in Schedules A, B, C or F, that is not permitted by Rule R39, or the discharge of fumigants including, ethylene dibromide, ethylene oxide, methyl bromide, hydrogen cyanide, phosphine or chloropicrin into air is a controlled activity.</i></p> <p><i>Matters of control</i></p> <ol style="list-style-type: none"> 1. <i>Monitoring and reporting requirements</i> 2. <i>Distance of the buffer zone from the area of discharge.</i> 	<p>As currently drafted the rule is considered to be too permissive and may have implications for receiving environments located within sites of significance, the amendment will mean that discharges in those areas will be a discretionary activity in accordance with Rule R41.</p> <p>Amendments have been proposed to enable more flexibility in controlling the effects of the discharge of fumigants.</p> <p>The deletion of methyl bromide from this rule will require any discharge of that chemical to obtain a resource consent in accordance with Rule R41. Methyl bromide is a broad spectrum pesticide which is recognised as an ozone-depleting substance and is being phased out in many countries.</p>

Appeal point	Proposed Plan	Relief sought	Reasons for relief
		<p>3. Quantity and concentration of the fumigants used.</p> <p>4. Location and extent of the discharge.</p>	
34.	Rule R48: Stormwater from an individual property permitted activity	<p>Amend Rule R48 as follows:</p> <p>The discharge of stormwater into water, or onto or into land where it may enter a surface water body or coastal water, from an individual property is a permitted activity, provided the following conditions are met:</p> <p>1. the discharge does not originate from industrial or trade premises where hazardous substances are stored or used unless:</p> <p>(i) hazardous substances cannot enter the stormwater system, or</p> <p>(ii) the stormwater contains no hazardous substances except petroleum hydrocarbons, and the stormwater is passed through an interceptor and the discharge does not contain more than 15 milligrams per litre of total petroleum hydrocarbons prior to release, and</p> <p>(b) the discharge is not from, onto or into SLUR Category III land, unless</p>	<p>While the Council generally supports Rule R48 it considers that the thresholds for concentrations of suspended solids are onerous, and it would be difficult for a discharge to meet those requirements meaning that the permitted activity status would only be able to be relied upon in very limited circumstances. As a number of properties in Porirua discharge stormwater directly into water (i.e. the discharges do not go into the stormwater network), if the condition is not amended it is likely that these properties would require resource consent for that discharge to continue which the Council considers would be an unjustified regulatory requirement for these properties.</p>

Appeal point	Proposed Plan	Relief sought	Reasons for relief
		<p>(i) the stormwater does not come into contact with SLUR Category III land, and</p> <p>(c) the discharge is not from a local authority stormwater network, a port, airport or state highway, and</p> <p>(d) the discharge shall not contain wastewater, and</p> <p>(e) the concentration of total suspended solids in the discharge shall not exceed:</p> <p>(i) 50100g/m³ where the discharge enters a site or habitat identified in Schedule A (outstanding water bodies), Schedule C (mana whenua), Schedule F1 (rivers/lakes), Schedule F3 (significant wetlands), Schedule F4 (coastal sites), or Schedule H1 (contact recreation), , or</p> <p>(ii) 100200g/m³ where the discharge enters any other water, and</p> <p>(f) the discharge shall not cause any erosion of the channel or banks of the receiving water body or the coastal marine area, and</p> <p>(g) the discharge shall not give rise to the following effects beyond the zone of reasonable mixing:</p>	

Appeal point	Proposed Plan reference	Relief sought	Reasons for relief
		<p>(i) the production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials, or</p> <p>(ii) any conspicuous change in the colour or visual clarity, or</p> <p>(iii) any emission of objectionable odour, or</p> <p>(iv) the fresh water is unsuitable for consumption by farm animals, or</p> <p>(v) any significant adverse effects on aquatic life.</p> <p><i>Note</i> <i>In respect of the discharge of sediment from earthworks activities refer to Rules R99 and R101.</i></p>	
35.	Rule R51: Stormwater from a local authority network with a stormwater management strategy — restricted discretionary activity	Amend matter of discretion (2) as follows: “development and implementation of methods, such as catchment-specific stormwater management plan(s), in accordance with any relevant objectives identified in this plan, including any relevant whaitua-specific objectives”.	This term “stormwater management plan” is not defined and there is no guidance on what such a plan is expected to encompass, how it will be assessed, and how it is intended to fit with the stormwater management strategy.
36.	Rule R52: Stormwater from a port, airport or state highway —	Amend Rule R52 as follows:	Not all local roads within Porirua are connected to the local stormwater network. Currently Rule R52 draws an arbitrary line between state highways and local roads. For example State Highway 58 which borders

Appeal point	Proposed Plan reference	Relief sought	Reasons for relief
	restricted discretionary activity	<i>The discharge of stormwater into water, or onto or into land where it may enter a surface water body or coastal water, including through a local authority stormwater network, from a port, airport, or state highway or local roading network is a restricted discretionary activity</i>	the south side of the Pauatahanui Inlet would be captured by this rule, but Greys Road which is on the northern side would not fit the requirements of the rule and the more restrictive Rule R53 would apply.
37.	Rules R61 and R62: Wastewater discharges	<p>Amend Rules R61 and R62 as follows:</p> <p><i>Rule R61: Wastewater discharges to coastal and fresh water – discretionary activity</i></p> <p><i>The discharge of wastewater:</i></p> <p>(a) <i>into coastal water, or</i></p> <p>(b) <i>that is an existing discharge into fresh water and <u>to the extent it is practicable</u> meets the following conditions:</i></p> <p style="padding-left: 40px;">(i) <i>the volume of the discharge is reduced</i></p> <p style="padding-left: 40px;">(ii) <i>the volume or concentration of contaminants is reduced</i></p> <p style="padding-left: 40px;">(iii) <i>the range of contaminants in the discharge is not increased <u>or</u></i></p> <p>(c) <i><u>is a new overflow discharge of wastewater.</u></i></p>	<p>Rules R61 and R62 have the potential to significantly increase costs on local authorities to enable compliance of discharges to freshwater– both in terms of consenting costs and the need to upgrade existing infrastructure. The rules are likely to be very onerous in their application – in particular if they are read as applying to new overflow discharges of wastewater (i.e. those that occur on a temporary basis during high rainfall events). High rainfall overflows are used as ‘emergency’ infrastructure to deal with sudden high increases in wastewater.</p> <p>Without the proposed amendment sought to Rule R61(b) it is not clear how all of sub paragraphs (i) – (iii) could be met.</p> <p>It is also not clear whether new overflows will fall within the definition of <i>existing discharges</i>. In the event that they do not, new overflows will be a non-complying activity. An amendment has also been proposed to that definition to address this.</p> <p>The Council also has particular concerns with Rule R62 as appears that any activity that sought consent under</p>

Appeal point	Proposed Plan reference	Relief sought	Reasons for relief
		<p><i>is a discretionary activity.</i></p> <p><i>Notification</i></p> <p><i>Any resource consent application arising from Rules R61 and R62 may be publicly notified; but shall be notified to the relevant iwi authority where their written approval has not been obtained.</i></p> <p><i>Rule R62: New discharges of wastewater to fresh water – non-complying activity</i></p> <p><i>The discharge of wastewater into fresh water that is:</i></p> <ul style="list-style-type: none"> <i>(a) an existing discharge into fresh water that does not comply with Rule R61(b), or</i> <i>(b) a new discharge into fresh water, <u>except those discharges in Rule 61(c)</u></i> <p><i>is a non-complying activity</i></p> <p>The Council also seeks any other amendment that would make these rules more workable in practice.</p>	<p>that rule would not be able to meet the objectives and policies in the Proposed Plan.</p>
38.	5.5.2: Wetlands general conditions	<p>Amend the wetlands general conditions as follows:</p> <p><i>Wetland general conditions for activities in significant natural wetlands and outstanding natural wetlands are that:</i></p> <p><i>---</i></p>	<p>The amendment to paragraph (b) is sought as a clarification as technically fuel could enter a water body through the groundwater network from any location.</p> <p>The amendment to (f) is sought to give the Council some flexibility as it would be very difficult for it to comply with a no-disturbance rule for five months of the</p>

Appeal point	Proposed Plan reference	Relief sought	Reasons for relief
		<p>(c) no cleaning or refuelling of machinery or equipment, or storage of fuel shall take place in, or within 10m of, a significant natural wetland or outstanding natural wetland, or at any location where fuel can <u>directly</u> enter a water body, and</p> <p>...</p> <p>(f) in any part of the significant natural wetland or outstanding natural wetland with inanga spawning habitat identified in Schedule F1b (inanga spawning), no bed disturbance, diversions of water or sediment discharge shall occur between 1 January and 31 May <u>unless the bed disturbance, diversion of water or sediment discharge is required to enable a local authority to undertake emergency works or maintenance and capital construction works in relation to its assets.</u></p>	<p>year. The Council also considers that some flexibility is required to enable clean up following storm events, or other emergencies and notes that such activities may be beneficial to inanga e.g. clearance of debris following a flooding event.</p>
39.	<p>Rule R100: Vegetation clearance on erosion prone land – permitted activity</p>	<p>Amend rule R100 as follows:</p> <p>Rule R100: Vegetation clearance on erosion prone land – permitted activity</p> <p>The use of land, and the associated discharge of sediment into water or onto or into land where it may</p>	<p>The Proposed Plan does not currently provide for the clearance of vegetation on land that is not erosion prone, meaning that any such clearance would require a discretionary resource consents in accordance with Rule R101. For clarity an amendment has also been sought to the definition of “vegetation clearance”.</p>

Appeal point	Proposed Plan	Relief sought	Reasons for relief
		<p>enter water from vegetation clearance up to a total area of 2ha per property per 12 month period on erosion prone land is a permitted activity, provided the following conditions are met:</p> <p>(a) any soil or debris from the vegetation clearance is not placed where it can enter a surface water body or the coastal marine area, and</p> <p>(b) any soil disturbances associated with the vegetation clearance shall not after the zone of reasonable mixing, Result in any of the following effects in receiving waters</p> <p>(i) the production of conspicuous oil or grease films, scums of foams, or floatable or suspended materials, or</p> <p>(ii) any conspicuous change in colour or visual clarity, or</p> <p>(iii) any emission of objectionable odour, or</p> <p>(iv) the rendering of fresh water unsuitable for consumption by animals, or</p> <p>(v) any significant effect on aquatic life, and</p> <p>(c) vegetation clearance shall not occur within 5m of a surface waterbody except for activities permitted by Rule R114 or Rule R115.</p> <p>Notes:</p>	

Appeal point	Proposed Plan	Relief sought	Reasons for relief
		<p>(a) Vegetation clearance is also controlled by provisions in district plans and bylaws, and the Electricity (Hazards from Trees) Regulations 2003.</p> <p>(b) Rule R100 does not control any vegetation clearance or vegetation disturbances covered by the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017.</p>	
40.	Rule R104: Structures in significant natural wetlands – permitted activity	<p>Amend Rule R104 as follows:</p> <p>a. <u>generally only hand-held machinery is to be used in any area of the significant natural wetland, however larger machinery may be used by local authorities for maintenance and repair of their assets.</u></p>	The Council considers will need to undertake maintenance and repair of its assets within significant natural wetlands (e.g. boardwalks). As those assets have already been determined to be appropriately located a permitted activity status is appropriate for their maintenance and repair.
41.	Rule R106: Restoration of significant natural wetlands and outstanding natural wetlands – controlled activity	<p>Delete Rule R106 and replace it with the following permitted activity:</p> <p><u>An activity undertaken in accordance with an approved wetland restoration management plan which are intended to restore the indigenous biodiversity of a significant natural wetland or outstanding natural wetland identified in Schedule A3 (outstanding wetlands) is a permitted activity.</u></p>	As the wetland restoration management plan has already been approved a permitted activity status is considered more appropriate for these types of activities.

Appeal point	Proposed Plan reference	Relief sought	Reasons for relief
42.	Rule R107: Activities in wetlands and significant natural wetlands – discretionary activity	<p>Amend Rule R107 as follows:</p> <p><i>The following activities in a significant natural wetland except for those stipulated in and carried out in accordance with a wetland restoration management plan under Rule R106:</i></p> <p>...</p> <p><i>(e) <u>work in wetlands undertaken for amenity purposes.</u></i></p>	An amendment is sought to enable works undertaken in wetlands for amenity purposes to be considered as a discretionary activity. The Council undertakes such works for the benefit of the community, and notes that any such activities would need to be undertaken in accordance with a wetland restoration management plan, and would require resource consent.
43.	Rule R109: Activities in outstanding natural wetlands – discretionary activity	<p>Amend Rule R109 as follows:</p> <p><i>The following activities in an outstanding natural wetland identified in Schedule A3 (outstanding wetlands), except those stipulated in and carried out in accordance with a wetland restoration management plan under Rule R106:</i></p> <p>(a) <i>the maintenance, <u>upgrade</u>, repair or replacement (like for like) of existing structures,</i></p> <p>(b) <i>the placement of new structures of an area less than 10m² for the purpose of hunting and recreation (including maimai and jetties),</i></p> <p>(c) <i>the removal of existing structures,</i></p>	The Council has assets which provide erosion control and coastal access for the public which are located in the Pauatahanui Inlet which is identified in Schedule A3. It seeks amendment to Rule R109 to acknowledge the need for flexibility in how the Council manages these assets. Amendments are also sought to enable the future development, noting that this would be in accordance with objectives O10 and Policy P9 which support public access to the coast. The Council also seeks flexibility to enable it to respond to future risks of erosion, noting that to meet the requirements of this rule the proposed work would need to be stipulated in, and carried out in accordance with a wetland restoration management plan; and a discretionary resource consent would still be required.

Appeal point	Proposed Plan reference	Relief sought	Reasons for relief
		<p>(d) <i>removal of pest plants that are not permitted by Rule R105</i></p> <p>(e) <i><u>the placement of new structures by a local authority that are to provide for erosion protection or public access to the coast,</u></i></p> <p><i>are discretionary activities.</i></p>	
44.	Rules R110 and R111	<p>Amend Rule R110 as follows and delete Rule R111</p> <p><i>Rule R110: Activities in outstanding natural wetlands – non-complying activity</i></p> <p><i>The following activities, in an outstanding natural wetland identified in Schedule A3 (outstanding wetlands), except for those stipulated in and carried out in accordance with a wetland restoration management plan under Rule R106:</i></p> <p>...</p> <p><i>(g) <u>Reclamation or drainage</u></i></p> <p><i>Rule R111: Reclamation or drainage of outstanding natural wetlands – prohibited activity</i></p> <p><i>Reclamation or drainage of all or part of an outstanding natural wetland identified in Schedule A3 (outstanding wetlands), except stipulated in and carried out in accordance with a wetland restoration management plan under Rule R106, is a prohibited activity.</i></p>	<p>Rule R111 is unduly restrictive, in particular in relation to outstanding natural wetlands which are located within urban areas. For example, in the Pautahanui Inlet small reclamations may be required to provide for infrastructure assets (such as roads). While there is an exemption that a reclamation may be provided for in a wetland restoration management plan, it will not be possible to anticipate all potential reclamations before they are required.</p>

Appeal point	Proposed Plan reference	Relief sought	Reasons for relief
45.	5.5.4: Beds of lakes and rivers general conditions	<p>Amend 5.5.4 as follows:</p> <p><i>Beds of lakes and rivers general conditions for activities in the beds of lakes and rivers that apply as specified in Rules R112 to R125:</i></p> <p>...</p> <p>(a) — except where the discharge is expressly allowed by the activity description of a rule in this chapter there shall be no discharge of contaminants (including but not limited to oil, petrol, diesel, paint, solvent, heavy metals or other toxicants) to water or the bed, except where this is the result of the disturbance of sediment and other materials already existing in the water or bed, and</p> <p>(a) — no cleaning or refuelling of machinery or equipment, or storage of fuel shall take place in, or within 10m of, a river or lake bed, or at any location where fuel can directly enter any water body, and</p> <p>....</p> <p>(f) <i>in any part of the river bed identified as inanga spawning habitat in Schedule F1 (rivers/lakes), no bed disturbance, diversions of water or sediment discharge shall occur between 1 January and 31 May, unless the bed disturbance, diversion</i></p>	<p>As a new definition of “contaminants” is sought the inclusion in (a) is proposed to be deleted. If a definition is not included in the Proposed Plan then further clarification as to how the term “contaminants” will be interpreted in this provision will be required.</p> <p>Refer to the comments on 5.5.2 in relation to the proposed amendments to <u>(f)</u>, (b) and (e).</p>

Appeal point	Proposed Plan	Relief sought	Reasons for relief
		<p><u>of water or sediment discharge is required to enable a local authority to undertake emergency works or maintenance and capital construction works in relation to its assets.</u></p>	
46.	Rule R115: Culverts – permitted activity	<p>Amend Rule R115 as follows:</p> <p><i>The placement or construction and subsequent use of a culvert and associated protective structure that is fixed in, or on or under, the bed of a river excluding activities regulated by the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 including any associated:</i></p> <p>...</p> <p>(l) <i>the culvert shall be positioned so that its alignment and gradient are generally the same as the river, and</i></p>	The amendments are sought are for clarity and to ensure that this rule is as workable as possible.
47.	New rule to sit after Rule R116	<p>Add a new rule to sit after Rule R116:</p> <p><i>R[x]: Existing structures – permitted activity</i></p> <p><i>Any structure that is lawfully fixed in, on, or under the bed of a river that existed as at 31 July 2015 including any associated:</i></p> <p><i>(a) disturbance of the river or lake bed, and</i></p>	<p>Recognition for existing structures and the associated diversion of water is sought, subject to appropriate permitted activity standards. Without this acknowledgement existing structures would require resource consent to remain in a river, although the use of such structures would be a permitted activity under rules R114 and R116.</p> <p>As an example, the existing gravel retention structures in headwaters of Porirua Stream should be able to remain without consent given the important function they play in relation to flood mitigation.</p>

Appeal point	Proposed Plan reference	Relief sought	Reasons for relief
		<p>(b) — deposition on the river or lake bed, and</p> <p>(c) — diversion of water, and</p> <p>(d) — damming of water, and</p> <p>(e) — discharge of sediment to water, and</p> <p>(f) — reclamation associated with the dam structure, and</p> <p>(g) — the damming of water outside the bed of a lake or river by a dam structure</p> <p><i>is a permitted activity.</i></p>	
48.	Rule R123: Planting – permitted activity	Clarify how the reference to “flood plain management plan” will be interpreted.	Refer to the appeal points regarding the insertion of new provisions seeking the insertion of provisions clarifying how a “flood plain management plan” will be developed.
49.	New Rules R127A and R127B and amendments to Rules R127 and R128	<p>Insert the following rules before Rule R127:</p> <p><u>Rule R127A: Reclamation of the beds of rivers or lakes in a future urban growth area subject to a comprehensive development plan – controlled activity</u></p> <p><u>The reclamation of the bed, or any part of the bed, of a river or lake associated with piping of a stream within an future urban growth area, in respect of which a</u></p>	The Council considers that the Proposed Plan is unduly onerous in relation to the piping of streams, in particular in relation to areas which have already been assessed and established as being appropriate for urban development (i.e. those area identified as having a future urban growth area). Given these areas have already been assessed and approved as being appropriate for development at a strategic level it is considered appropriate that a less onerous activity

Appeal point	Proposed Plan	Relief sought	Reasons for relief
		<p><u>comprehensive development plan has been approved, is a controlled activity.</u></p> <p><u>Matters of control</u></p> <p><u>(a) disturbance of the lake or river bed, and</u> <u>(b) deposition on the lake or river bed, and</u> <u>(c) diversion of water, and</u> <u>(d) discharge of sediment to water</u></p> <p><u>Rule R127B: Reclamation of the beds of rivers or lakes in a future urban growth area not subject to a comprehensive development plan – restricted discretionary activity</u></p> <p><u>The reclamation of the bed, or any part of the bed, of a river or lake associated with piping of a stream within an future urban growth area, in respect of which a comprehensive development plan has not been approved, is a restricted discretionary activity.</u></p> <p><u>Matters of discretion</u></p> <p><u>(a) disturbance of the lake or river bed, and</u> <u>(b) deposition on the lake or river bed, and</u> <u>(c) diversion of water, and</u> <u>(d) discharge of sediment to water</u></p> <p>Amend Rules R127 and R128 to acknowledge the new rules noted above.</p>	<p>status is considered to be appropriate, noting that resource consent will still be required.</p> <p>Refer also to the general reasons regarding the importance of urban development as set out in the main body of the appeal.</p> <p>Given Porirua' s hilly terrain, future urban development will be require cut and fill re-contouring to occur to enable the future urban development of land within the district. As part of this piping of streams is likely to be required.</p>

Appeal point	Proposed Plan reference	Relief sought	Reasons for relief
50.	New rules to sit before Rule R129	<p>Add the following rules to the Proposed Plan to sit before Rule R129:</p> <p><u>Rule R[x]: River crossings, culverts, dams and structures in a future urban growth area subject to a comprehensive development plan – controlled activity</u></p> <p><u>Where the relevant permitted activity rule is not met, construction of river crossings, culverts, dams and structures undertaken within a future urban growth area, in respect of which a comprehensive development plan has been approved, is a controlled activity</u></p> <p><u>Matters of control</u></p> <p><u>(a) disturbance of the lake or river bed, and</u> <u>(b) deposition on the lake or river bed, and</u> <u>(c) diversion of water, and</u> <u>(d) discharge of sediment to water</u></p> <p><u>Rule R[x]: River crossings, culverts, dams and structures, in a future urban growth area not subject to a comprehensive development plan – restricted discretionary activity</u></p> <p><u>Where the relevant permitted activity rule is not met construction of river crossings, culverts, dams and structures, undertaken within a future urban growth area, in respect of which a comprehensive development plan has not been approved, is a restricted discretionary activity.</u></p>	<p>A comprehensive development plan suggests that significant modelling has been completed. The activity statuses set out in the rule acknowledge this work, and they also are more consistent with enabling greenfield areas to be developed.</p>

Appeal point	Proposed Plan reference	Relief sought	Reasons for relief
		<p><u>Matters of discretion</u></p> <p><u>(a) disturbance of the lake or river bed, and</u> <u>(b) deposition on the lake or river bed, and</u> <u>(c) diversion of water, and</u> <u>(d) discharge of sediment to water</u></p>	
51.	New rules to sit before Rule R130	<p>Add the following rules to the Proposed Plan to sit before Rule R130:</p> <p><u>Rule R[x]: Damming or diverting water within or from a river within a future urban growth area subject to a comprehensive development plan – controlled activity</u></p> <p><u>Damming or diverting water within or from a river within a future urban growth area, in respect of which a comprehensive development plan has been approved, is a controlled activity.</u></p> <p><u>Matters of control</u></p> <p><u>(a) disturbance of the lake or river bed, and</u> <u>(b) deposition on the lake or river bed, and</u> <u>(c) diversion of water, and</u> <u>(d) discharge of sediment to water</u></p> <p><u>Rule R[x]: Damming or diverting water within or from a river within a future urban growth area not subject to a comprehensive development plan – restricted discretionary activity</u></p>	Refer to the reasoning in relation to the appeal points noted immediately above, and in the main body of the appeal document.

Appeal point	Proposed Plan reference	Relief sought	Reasons for relief
		<p><u>Damming or diverting water within or from a river within a future urban growth area, in respect of which a comprehensive development plan has not been approved, is a restricted discretionary activity.</u></p> <p><u>Matters of discretion</u></p> <p><u>(a) disturbance of the lake or river bed, and</u> <u>(b) deposition on the lake or river bed, and</u> <u>(c) diversion of water, and</u> <u>(d) discharge of sediment to water</u></p>	
52.	5.7.2: Coastal management general conditions	<p>Amend the coastal management general conditions as follows:</p> <p><i>Fish passage</i></p> <p>(k) <u>Any structure constructed in the coastal marine area shall not impede fish passage between coastal and fresh water habitat unless a temporary restriction of no more than 48 hours is required for construction or maintenance activities, and</u></p> <p><i>Inanga spawning</i></p> <p>(l) <u>In any part of the coastal marine area (including any part of a river in the coastal marine area) identified as inanga spawning habitat in Schedule F1b (inanga spawning habitat), no disturbance of or deposition in, on or under the foreshore or</u></p>	<p>Maintaining fish passage at all times during construction and maintenance of structures. A level of flexibility is sought to enable the Council to maintain / provide structures in the coastal marine area. The proposed amendment aligns with 5.5.2(e) in the decision version of the Proposed Plan.</p> <p>Refer to the comments on 5.5.2 in relation to the proposed amendment to (l).</p>

Appeal point	Proposed Plan	Relief sought	Reasons for relief
		<p><i>seabed shall occur and no diversion of open coastal water or sediment discharge shall occur between 1 January and 31 May <u>unless the disturbance of or deposition in, on or under the foreshore or seabed is required to enable a local authority to undertake emergency works or maintenance and capital construction works in relation to its assets.</u></i></p>	
53.	<p>Rule R161: New structures, additions or alterations to structures outside sites of significance – discretionary activity</p>	<p>Amend Rule R161 as follows:</p> <p><i>The placement of a new structure, addition or alteration to a structure and the associated use of the structure outside a site or habitat identified in Schedule C (mana whenua), Schedule F4 (coastal sites), Schedule F5 (coastal habitats) or Schedule J (geological features) in the coastal marine area, including any associated:</i></p> <p>....</p> <p>(a) <i>occupation of space in the common marine and coastal area, and</i></p> <p>(b) <i>disturbance of the foreshore or seabed, and</i></p> <p>(c) <i>deposition in, on or under the foreshore or seabed, and</i></p> <p>(d) <i>discharge of contaminants, and</i></p> <p>(e) <i>diversion of open coastal water</i></p> <p><i>that is not permitted by Rule R156, Rule R175, Rule R176, or controlled by Rule R151 or Rule R157 or Rule</i></p>	<p>The Council does not consider that there is sufficient justification for a non-complying activity status to the placement of new structures, addition or alteration to structures and their associated uses to apply to sites in Schedule C, F4, F5 and J. An amendment is therefore sought to extend Rule R161 and delete Rule R162.</p> <p>The values identified in those schedules are considered to be varied as are the types of activities that the rules could capture. In particular the Council is concerned that relatively small activities could trigger the requirement for a non-complying activity resource consent which would not be in accordance with the potential effects of the activity that is proposed to be undertaken, for example adding a hand rail to an existing structure.</p> <p>As Rule R161 will require an applicant to obtain a discretionary activity resource consent, the effects of any proposed activity will still be able to be assessed in full and appropriately managed if needed.</p>

Appeal point	Proposed Plan reference	Relief sought	Reasons for relief
		<i>R174 or restricted discretionary under Rule R155 or prohibited under Rule R159 is a discretionary activity.</i>	
54.	Rule R162: New structures, additions or alterations to structures inside sites of significance – non-complying activity	Delete Rule R162.	Refer to the discussion in relation to Rule R161.
55.	New rule to sit before Rule R167	<p>Add the following rule to sit before Rule R167:</p> <p><u><i>Rule R[x]: Seawalls inside sites of significance required for infrastructure – discretionary activity</i></u></p> <p><u><i>The placement of a new seawall, or the addition to or alteration or replacement of an existing seawall required to protect existing infrastructure or as part of an upgrade to infrastructure, and the associated use of the structure inside a site or habitat identified in Schedule C (mana whenua), Schedule F4 (coastal sites), Schedule F5 (coastal habitats) or Schedule J (geological features) in the coastal marine area including any associated:</i></u></p> <p>(a) <u><i>occupation of space in the common marine and coastal area, and</i></u></p> <p>(b) <u><i>disturbance of the foreshore or seabed, and</i></u></p>	<p>Given the extent of the sites of significance identified in Schedule C (mana whenua), Schedule F4 (coastal sites), Schedule F5 (coastal habitats) or Schedule J (geological features) within the Porirua district, new seawalls under Rule R167 would be a non-complying activity along large parts of the coastline. As infrastructure assets also adjoin much of the coastline, the Council has concerns about the workability of such an onerous activity status.</p> <p>The Council considers that the amendments it proposes better align with Policy P139.</p>

Appeal point	Proposed Plan	Relief sought	Reasons for relief
		<p><i>(c) deposition in, on or under the foreshore or seabed, and</i></p> <p><i>(d) discharge of contaminants, and</i></p> <p><i>(e) diversion of open coastal water</i></p> <p><i>that is not a controlled activity under Rule R165 is a discretionary activity.</i></p> <p>An amendment will also be required to Rule R167 to acknowledge this new rule.</p>	
56.	Method M[X]: Enabling urban development	<p>Add a new method to the Proposed Plan as follows:</p> <p><i>Method M[X]: Enabling urban development</i></p> <p><i>In light of its statutory functions under sections 30(1)(ba) and 30(1)(gb) Wellington Regional Council will work with territorial authorities in considering how to provide for development within future urban growth areas. As part of that process the Wellington Regional Council will consider and, where appropriate, provide input into any relevant comprehensive development plans including the need for new or upgraded infrastructure to support that development.</i></p> <p><i>The purpose of this approach is to ensure that sufficient development capacity is provided to meet the expected demands of the region, and to ensure that such</i></p>	<p>There is a lack of consideration for the strategic growth context within the Wellington Region and the need to meet the requirements of the National Policy Statement on Urban Development Capacity. This provision seeks to include a framework within which GWRC can meaningfully consider and provide input into proposed development at the front end to avoid unnecessary restrictions being imposed in relation to development of strategic urban growth areas.</p>

Appeal point	Proposed Plan	Relief sought	Reasons for relief
		<i>development is not unduly or unreasonably restricted. It also recognises the need for strategic integration of infrastructure with land use.</i>	
57.	Schedule F3	Accurately map all significant natural wetlands using GIS so that these wetlands are able to be easily identified by plan users.	The mapping is at a poor scale and is difficult to read with any accuracy.
58.	Schedule F5	Accurately map all of the habitats with significant indigenous biodiversity values in the coastal marine area using GIS so that these habitats are able to be easily identified by plan users.	The mapping is at a poor scale and is difficult to read with any accuracy.
59.	Map 35 Titahi Bay fossil forest (indicative)	Amend Map 35 to accurately follow the mean high water springs line.	Although the map is indicative the Council considers that it is currently misleading as it shows the extent to be over the mean high water springs line.

Appendix B: Porirua City Council's Submission and Further Submission on the Proposed Plan