MEDIATION 11 - GWRC SUMMARY STATEMENT

TOPIC: COASTAL MANAGEMENT

Sub-topic

1 Coastal structures

Proposed mediation date/s

2 Three topics as scheduled for audio-visual mediation issue 3 (7 April 2020 at 2pm); Issue 8 (8 April 2020 at 10am) and Issue 10 (8 April 2020 2pm).

3 Scheduling for the balance of the issues is to be confirmed.

Proposed GWRC attendees at the mediation

4 The following will attend on behalf of GWRC:
   a. Mary O’Callahan – Planning Consultant
   b. Richard Sheild – Planning
   c. Emma Manohar – DLA – Legal Counsel

Relevant provisions

<table>
<thead>
<tr>
<th>Provision</th>
<th>Page reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Noise sensitive activities</td>
<td>30</td>
</tr>
<tr>
<td>Objective O53: Functional need in the coastal marine area</td>
<td>54</td>
</tr>
<tr>
<td>Objective O55: Public open space</td>
<td>55</td>
</tr>
<tr>
<td>Policy P132: Functional need and efficient use</td>
<td>106</td>
</tr>
<tr>
<td>Policy P134: Public open space values and visual amenity</td>
<td>106</td>
</tr>
<tr>
<td>Policy P138: Structures in sites with significant values</td>
<td>107</td>
</tr>
<tr>
<td>Policy P150: Noise and lighting</td>
<td>111</td>
</tr>
<tr>
<td>5.7.2 Coastal management general conditions</td>
<td>234</td>
</tr>
<tr>
<td>Rule R149: Maintenance or repair of structures - permitted activity</td>
<td>240</td>
</tr>
</tbody>
</table>

1 These provisions are set out in Appendix A.

2 Decision version clause 16 of the PNRP.
<table>
<thead>
<tr>
<th>Rule R153: Removal or demolition of a structures or part of a structure - restricted discretionary activity</th>
<th>244</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rule R154: New temporary structures outside sites of significance - permitted activity</td>
<td>244</td>
</tr>
<tr>
<td>Rule R155: New temporary structures - restricted discretionary activity</td>
<td>246</td>
</tr>
<tr>
<td>Rule R156: New or replacement navigation aids - permitted activity</td>
<td>246</td>
</tr>
<tr>
<td>Rule R160: New structures and disturbance associated with motor vehicles inside the Cook Strait Cable Protection Zone and adjacent foreshore, and inside a mana whenua site of significance - discretionary activity</td>
<td>249</td>
</tr>
<tr>
<td>Rule R161: New structures, additions or alterations to structures outside sites of significance - discretionary activity</td>
<td>250</td>
</tr>
<tr>
<td>Rule R162: New structures, additions or alterations to structures inside sites of significance - non-complying activity</td>
<td>250</td>
</tr>
<tr>
<td>Rule R164: Replacement of structures or parts of structures - restricted discretionary activity</td>
<td>251</td>
</tr>
</tbody>
</table>

**Appellants**

<table>
<thead>
<tr>
<th>Appellant</th>
<th>Court reference (ENV)</th>
</tr>
</thead>
<tbody>
<tr>
<td>CentrePort Limited and CentrePort Properties (CentrePort)</td>
<td>ENV-2019-WLG-000118</td>
</tr>
<tr>
<td>First Gas Ltd</td>
<td>ENV-2019-WLG-000132</td>
</tr>
<tr>
<td>Minister of Conservation</td>
<td>ENV-2019-WLG-000106</td>
</tr>
<tr>
<td>NZ Transport Agency</td>
<td>ENV-2019-WLG-000131</td>
</tr>
<tr>
<td>Porirua City Council</td>
<td>ENV-2019-WLG-000116</td>
</tr>
<tr>
<td>Rangitāne Tu Mai Ra Trust and Rangitāne o Wairarapa Inc Society (Rangitāne)</td>
<td>ENV-2019-WLG-000125</td>
</tr>
<tr>
<td>Royal Forest &amp; Bird Society Protection (Royal Forest &amp; Bird)</td>
<td>ENV-2019-WLG-000130</td>
</tr>
<tr>
<td>Transpower NZ Ltd</td>
<td>ENV-2019-WLG-000108</td>
</tr>
<tr>
<td>Wellington International Airport Ltd</td>
<td>ENV-2019-WLG-000117</td>
</tr>
<tr>
<td>Wellington Water Ltd</td>
<td>ENV-2019-WLG-000123</td>
</tr>
</tbody>
</table>
Section 274 parties

<table>
<thead>
<tr>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>CentrePort</td>
</tr>
<tr>
<td>Heritage New Zealand</td>
</tr>
<tr>
<td>Kainga Ora Homes and Communities</td>
</tr>
<tr>
<td>Kāpiti Coast District Council</td>
</tr>
<tr>
<td>Kiwirail Holdings Ltd</td>
</tr>
<tr>
<td>First Gas Ltd</td>
</tr>
<tr>
<td>Meridian Energy Limited</td>
</tr>
<tr>
<td>Minister of Conservation</td>
</tr>
<tr>
<td>NZ Transport Agency</td>
</tr>
<tr>
<td>Porirua City Council</td>
</tr>
<tr>
<td>Powerco Ltd</td>
</tr>
<tr>
<td>Rangitāne</td>
</tr>
<tr>
<td>Royal Forest and Bird</td>
</tr>
<tr>
<td>Site 10 Redevelopment LP</td>
</tr>
<tr>
<td>The Oil Companies - Z Energy Limited, BP Oil NZ Ltd and Mobil Oil NZ Ltd (Oil Companies)</td>
</tr>
<tr>
<td>Transpower NZ Ltd</td>
</tr>
<tr>
<td>Wellington Civic Trust</td>
</tr>
<tr>
<td>Wellington Fish and Game Council</td>
</tr>
<tr>
<td>Wellington International Airport Ltd</td>
</tr>
<tr>
<td>Wellington Water Ltd</td>
</tr>
</tbody>
</table>

Appeal issues

5 The sub-topic appeal issues are:

5.1 Issue 1: Definition – Noise sensitive activities

5.2 Issue 2: Objective O53: Functional need in the coastal marine area

5.3 Issue 3: Objective O55: Public open space

5.4 Issue 4: Policy P132: Functional need and efficient use

5.5 Issue 5: Policy P134: Public open space values and visual amenity
5.6 Issue 6: Policy P138: Structures in sites with significant values
5.7 Issue 7: 5.7.2 Coastal management general conditions
5.8 Issue 8: Rule R149: Maintenance or repair of structures - permitted activity
5.9 Issue 9: Rule R154: New temporary structures outside sites of significance - permitted activity
5.10 Issue 10: Activities associated with the National Grid
5.11 Issue 11: Rule R161: New structures, additions or alterations to structures outside sites of significance - discretionary activity

**Issue 1: Definition – Noise sensitive activities**

<table>
<thead>
<tr>
<th>GWRC Appeal point ref.</th>
<th>Provision</th>
<th>Appellant</th>
<th>Summary of appellant’s relief sought</th>
<th>Section 274 parties and position: Support (S) or Oppose (O) or Neutral (N)</th>
</tr>
</thead>
</table>
| A018/008              | Definition – Noise sensitive activities | Porirua City Council³ | Amend the definition of “noise sensitive activities” as follows: Any residential activity, any early childhood education centre, or any hotel, motel or other accommodation activity where the facility is used for night time sleeping including hospitals. | Wellington International Airport Ltd (N)  
Rangitāne Tu Mai Ra Trust and Rangitāne o Wairarapa Inc Society (O)  
Wellington Fish and Game Council (O)  
Royal Forest and Bird Protection Society (O)  
Kāpiti Coast District Council (S)  
First Gas Ltd (S) |

**Related appeal points from other sub-topics**

6 Not applicable.

**Summary of decision**

7 The Decision rejected this relief as it is highly unlikely that any hospitals will be located near the Commercial Port Area or Lambton Harbour Area, which is context in which the definition is used.

³ Appeal point withdrawn on 12 March 2020
Changes since the decision
8 Not applicable.

Outcome of direct discussions
9 The appellant, PCC, confirmed on 12 March 2020 they will be filing a withdrawal notice on this appeal point.

Council position
10 Council does not consider it is necessary to include hospitals within the definition given the phrase is only used in respect of activities in the coastal marine area.

Issues for discussion
11 Whether any s274 parties wish to continue with the appeal.

Outcomes from prior mediation topics of relevance
12 Not applicable.

Issue 2: Objective O53: Functional need in the coastal marine area

<table>
<thead>
<tr>
<th>GWRC Appeal point ref.</th>
<th>Provision</th>
<th>Appellant</th>
<th>Summary of appellant’s relief sought</th>
<th>Section 274 parties and position: Support (S) or Oppose (O) or Neutral (N)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A017/008</td>
<td>Objective O53: Functional need in the coastal marine area</td>
<td>NZ Transport Agency</td>
<td>Amend O53 as follows: Use and development shall not be located in the coastal marine area except where it has a functional need or operational requirement to be located there unless the use and development is in the Lambton Harbour Area.</td>
<td>Minister of Conservation (S) Wellington Water Ltd (S) Wellington International Airport Ltd (S) CentrePort (S) Rangitāne (O) Royal Forest and Bird Protection Society (O) Kainga Ora Homes and Communities (S)</td>
</tr>
<tr>
<td>A030/015</td>
<td>Objective O53: Functional need in the coastal marine area</td>
<td>Wellington International Airport Ltd</td>
<td>Amend Objective O53 as follows: Use and development shall not be located in the coastal marine area except where it has a functional need or</td>
<td>Wellington Water Ltd (S) CentrePort (O) NZ Transport Agency (S) Royal Forest and Bird (O)</td>
</tr>
<tr>
<td>GWRC Appeal point ref.</td>
<td>Provision</td>
<td>Appellant</td>
<td>Summary of appellant’s relief sought</td>
<td>Section 274 parties and position: Support (S) or Oppose (O) or Neutral (N)</td>
</tr>
<tr>
<td>------------------------</td>
<td>-----------</td>
<td>-----------</td>
<td>--------------------------------------</td>
<td>-------------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>operational requirement to be located there unless the use and development is in the Lambton Harbour Area.</td>
<td></td>
</tr>
</tbody>
</table>

**Related appeal points from other sub-topics**

13 Not applicable.

**Summary of decision**

14 The Decision amended Objective O53 to align its language with the more directive wording used in Policy 6(2)(c) and (d) of the NZCPS, and to provide an exception for the Lambton Harbour Area.

15 The latter amendment was intended to resolve a conflict between Objective O53 and Objective O57, with O53 discouraging use and development in the CMA unless it has a functional need or operational requirement, and O57 encouraging use and development in the Lambton Harbour Area when compatible with its surroundings, regardless of functional need or operational requirement.

**Changes since the decision**

16 Not applicable.

**Outcome of direct discussions**

17 Not applicable.

**Council position**

18 Council considers Objective O53 is generally appropriate. The Council notes that the relief sought is a reversion to the text of Objective O53 as it was when the proposed Plan was first notified.

**Issues for discussion**

19 The issues of concern with the wording of Objective O53.

**Outcomes from prior mediation topics of relevance**

20 Not applicable.
Issue 3: Objective O55: Public open space

<table>
<thead>
<tr>
<th>GWRC Appeal point ref.</th>
<th>Provision</th>
<th>Appellant</th>
<th>Summary of appellant’s relief sought</th>
<th>Section 274 parties and position: Support (S) or Oppose (O) or Neutral (N)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A030/016</td>
<td>Objective O55: Public open space</td>
<td>Wellington International Airport Ltd</td>
<td>Amend Objective O55 as follows: The need for appropriately located public open space in the coastal marine area is recognised.</td>
<td>Minister of Conservation (O) CentrePort (S) Royal Forest and Bird (O)</td>
</tr>
</tbody>
</table>

**Related appeal points from other sub-topics**

21 Not applicable.

**Summary of decision**

22 Objective O55 was retained as notified. The Decision considered that the relief sought by submitters, which was the same as the above relief sought, would reduce the effectiveness of the objective and fail to give effect to Objective 4 and Policies 6 and 18 of the NZCPS.

**Changes since the decision**

23 Not applicable.

**Outcome of direct discussions**

24 Not applicable.

**Council position**

25 Council considers Objective O55 is appropriate. It is directive and effective. NZCPS Policy 6(2)(b) does not provide for the kind of qualified public access sought by the appellant. Council also considers that O55 will not create consenting difficulties, as the wording it uses ie “recognised” is not highly directive.

**Issues for discussion**

26 Whether amending Objective O55 is appropriate and whether the relief sought would give effect to the NZCPS.

**Outcomes from prior mediation topics of relevance**

27 Not applicable.
### Issue 4: Policy P132: Functional need and efficient use

<table>
<thead>
<tr>
<th>GWRC Appeal point ref.</th>
<th>Provision</th>
<th>Appellant</th>
<th>Summary of appellant’s relief sought</th>
<th>Section 274 parties and position: Support (S) or Oppose (O) or Neutral (N)</th>
</tr>
</thead>
</table>
| A016/024               | Policy P132: Functional need and efficient use | Minister of Conservation | Reconcile policies P132 and P142 by either:  
1. Making the Lambton Harbour Area subject to paragraphs (e) – (h) in P132 (which relate to using minimum area necessary, making available for appropriate public or multiple use, removing structures when redundant and concentrating development locations where practicable) and/or;  
2. Confining the exclusion of the Lambton Harbour Area from P132 to parts of the Lambton Harbour Area where redevelopment of existing structures is contemplated, such as the existing “finger wharves” in the northern part of the Lambton Harbour Area. | Wellington International Airport Ltd (O)  
CentrePort (S)  
Site 10 Redevelopment LP (O)  
Wellington Fish and Game Council (S)  
Royal Forest and Bird (S)  
Kainga Ora Homes and Communities (O) |
| A025/013               | Policy P132: Functional need and efficient use | Transpower NZ Ltd | Amend sub-clause (b) to refer to “technical or operational requirement” and exempt the National grid from sub-clauses (g) and (h). | Wellington International Airport Ltd (S)  
The Oil Companies (N)  
Powerco Ltd (N)  
Royal Forest and Bird (O) |
| A030/031               | Policy P132: Functional need and efficient use | Wellington International Airport Ltd | Amend Policy P132 as follows:  
… and in respect of (a), (b) and (d):  
e) ensure that the extent of the use provides for the efficient operation of infrastructure only use the minimum area necessary | Minister of Conservation (O)  
Wellington Water Ltd (S)  
CentrePort (S)  
NZ Transport Agency (S)  
Royal Forest and Bird (O) |
### Related appeal points from other sub-topics

28 This appeal is related to two other topics: topic 5 (RSI definitions) and topic 6 (balance of beneficial use and development). Agreement in principle was reached on mediation Topic 5 (on 6 March) to amend the definition of “operational requirement” to incorporate technical requirements. Council expects this should address Transpower NZ Ltd’s concerns.

### Summary of decision

29 The Decision added a new clause to Policy P132 to clarify that use and development is expected in the Lambton Harbour Area. This was also to ensure there is no unintended conflict between the direction in Policies P132 and P142. There was no discussion in the Decision as to whether the two policies need reconciling.

### Changes since the decision

30 Not applicable.

### Outcome of direct discussions

31 Nil.

### Council position

32 The Council is concerned about the Minister of Conservation’s suggestion to make the Lambton Harbour Area subject to paragraphs (e) – (h) in P132 as it appears to introduce a conflict with the intention of the provisions of P142. The Plan has attempted to determine that use and development of the Lambton Harbour Area is appropriate and as such, there...
are different matters to consider there, as distinct from the balance of the coastal marine area which is covered by P132.

33 The Council is open to exploring the alternative relief which looks to reduce the parts of the Lambton Harbour Area where the limitations in (e) to (h) are not applied, but would like to understand what specific values are sought to be protected by the appellant through this approach. Also, the Council is keen to understand the matters of concern for the s274 parties in opposition.

34 The Council is open to exploring some change to (f) as sought by Wellington International Airport Ltd, as there may be some slight misalignment with Policy 6(2)(e)(i) of the NZCPS.

35 Wellington International Airport Ltd’s suggested change to (e) is not supported as it would reduce the clarity and effectiveness of the policy and would render it irrelevant to non-infrastructure structures.

Issues for discussion

36 Whether there is any need to reconcile Policies P132 and P142.

37 Whether amendment is needed to sub-clause (f) of P132 to better align it with the NZCPS.

38 Why sub-clause (e) is not suitable to cover infrastructure needs?

Outcomes from prior mediation topics of relevance

39 The mediation on subtopic 5: RSI definitions resulted in agreement in principle to the following change to the definition of operational requirement: “When an activity needs to be carried out in a particular location or way (including because of technical, logistical or safety reasons) in order to be able to function effectively and efficiently”.

Issue 5: Policy P134: Public open space values and visual amenity

<table>
<thead>
<tr>
<th>GWRC Appeal point ref.</th>
<th>Provision</th>
<th>Appellant</th>
<th>Summary of appellant’s relief sought</th>
<th>Section 274 parties and position: Support (S) or Oppose (O) or Neutral (N)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A030/032</td>
<td>Policy P134: Public open space values and visual amenity</td>
<td>Wellington International Airport Ltd</td>
<td>Replace the term ‘minimised’ in the policy with ‘avoided, remedied, or mitigated’.</td>
<td>CentrePort (S) Royal Forest and Bird (O)</td>
</tr>
<tr>
<td>A009/007</td>
<td>Policy P134: Public open space values</td>
<td>CentrePort</td>
<td>Replace the term ‘minimised’ in the policy with ‘avoided, remedied, or mitigated’.</td>
<td>Wellington International Airport Ltd (S) Rangitāne (O)</td>
</tr>
<tr>
<td>GWRC Appeal point ref.</td>
<td>Provision</td>
<td>Appellant</td>
<td>Summary of appellant’s relief sought</td>
<td>Section 274 parties and position: Support (S) or Oppose (O) or Neutral (N)</td>
</tr>
<tr>
<td>------------------------</td>
<td>-----------</td>
<td>-----------</td>
<td>--------------------------------------</td>
<td>----------------------------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>and visual amenity</td>
<td>Make a minor further amendment by inserting the word ‘of’ after ‘constraints’ and before ‘the commercial port’ in (b).</td>
<td>NZ Transport Agency (S) Porirua City Council (S) Kāpiti Coast District Council (S) Royal Forest and Bird (O)</td>
<td></td>
</tr>
</tbody>
</table>

**Related appeal points from other sub-topics**

40 This issue is also relevant to topic 28: introduction, interpretation, and ki uta ki tātai and topic 2 where the case and wording for a possible definition of minimise has been discussed, to address other similar appeal points.

**Summary of decision**

41 Policy P134 was amended to specifically mention functional need and operational requirements in the context of the port and airport, with the aim of easing the consenting pathway for these infrastructure providers. The Decision adopted the section 42A report’s conclusion that minimise was appropriate, but neither contained detailed commentary as to why the term is appropriate specifically for Policy P134. Commentary on ‘minimise’ was in other parts of the Decision. In summary, the term was retained in policies where it was (and is) used.

**Changes since the decision**

42 A minor correction was made to insert a missing word before ‘the commercial port area’ - ‘of the commercial port area’. This addressed the second part of the relief sought by CentrePort.

**Outcome of direct discussions**

43 Not applicable.

**Council position**

44 Council supports the policy as currently drafted.

**Issues for discussion**

45 The proposed definition of ‘minimise’.

46 The case for changing the policy approach in P134 from minimise to avoid, remedy or mitigate.
Outcomes from prior mediation topics of relevance

47 Parties drafted and tabled potential wording for a definition of ‘minimise’ on 3 March 2020 as part of topic 2. Council has subsequently confirmed it does not support the definition suggested at that mediation.

---

### Issue 6: Policy P138: Structures in sites with significant values

<table>
<thead>
<tr>
<th>GWRC Appeal point ref.</th>
<th>Provision</th>
<th>Appellant</th>
<th>Summary of appellant’s relief sought</th>
<th>Section 274 parties and position: Support (S) or Oppose (O) or Neutral (N)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A011/006</td>
<td>Policy P138: Structures in sites with significant values</td>
<td>First Gas Ltd</td>
<td>Amend clause (e) as follows …there are no reasonably practicable alternative locations or methods of providing for the activity, having regard to the benefits and costs of the environmental, economic, social, and cultural effects of any alternative locations or methods.</td>
<td>Meridian Energy Limited (S)&lt;br&gt;The Oil Companies (N)&lt;br&gt;Wellington International Airport Ltd (S)&lt;br&gt;CentrePort (S)&lt;br&gt;Rangitāne (O)&lt;br&gt;NZ Transport Agency (S)&lt;br&gt;Powerco Ltd (N)&lt;br&gt;Porirua City Council (S)&lt;br&gt;Kainga Ora Homes and Communities (S)&lt;br&gt;Royal Forest and Bird (O)</td>
</tr>
<tr>
<td>A016/025</td>
<td>Policy P138: Structures in sites with significant values</td>
<td>Minister of Conservation</td>
<td>Amend Policy P138 as follows …Schedule J (geological features or that meets the criteria in Policy 11(a) of the New Zealand Coastal Policy Statement</td>
<td>Meridian Energy Limited (O)&lt;br&gt;Wellington Water Ltd (O)&lt;br&gt;Wellington International Airport Ltd (O)&lt;br&gt;CentrePort (O)&lt;br&gt;Rangitāne (S)&lt;br&gt;NZ Transport Agency (O)&lt;br&gt;Powerco Ltd (O)&lt;br&gt;Porirua City Council (O)&lt;br&gt;Kāpiti Coast District Council (O)&lt;br&gt;Wellington Fish and Game Council (S)&lt;br&gt;Royal Forest and Bird (S)</td>
</tr>
<tr>
<td>GWRC Appeal point ref.</td>
<td>Provision</td>
<td>Appellant</td>
<td>Summary of appellant’s relief sought</td>
<td>Section 274 parties and position: Support (S) or Oppose (O) or Neutral (N)</td>
</tr>
<tr>
<td>------------------------</td>
<td>-----------</td>
<td>-----------</td>
<td>-------------------------------------</td>
<td>---------------------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>A017/028</strong> Policy P138: Structures in sites with significant values</td>
</tr>
<tr>
<td></td>
<td></td>
<td>NZ Transport Agency</td>
<td>Amend Policy P138 as follows: New structures, replacement of a structure or any addition or alteration to a structure within the coastal marine area within 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... And in respect of (a) to (d): there are no reasonably practicable alternative locations or methods providing for the activity.</td>
<td></td>
</tr>
<tr>
<td><strong>A018/032</strong> Policy P138: Structures in sites with significant values</td>
<td>Porirua City Council</td>
<td>Amend Policy P138 by adding a new clause (e) as follows: (e) the structure is required to protect or enhance recreational values or public access:</td>
<td>CenterPort (S) Rangitāne (O) Wellington Fish and Game Council (O) Royal Forest and Bird (S) Kāpiti Coast District Council (S)</td>
<td></td>
</tr>
<tr>
<td><strong>A019/070</strong> Policy P138: Structures in sites with significant values</td>
<td>Rangitāne</td>
<td>Amend Policy P138 and associated rules to add an additional qualifier for (d) that adverse effects on the sites listed in the first sentence of the policy must be avoided. No wording is provided.</td>
<td>Wellington Water Ltd (O) Wellington International Airport Ltd (O) CentrePort (O) The Oil Companies (O) NZ Transport Agency (O) Powerco Ltd (O) Wellington Fish and Game Council, (S) Royal Forest and Bird (S)</td>
<td></td>
</tr>
<tr>
<td>GWRC Appeal point ref.</td>
<td>Provision</td>
<td>Appellant</td>
<td>Summary of appellant’s relief sought</td>
<td>Section 274 parties and position: Support (S) or Oppose (O) or Neutral (N)</td>
</tr>
<tr>
<td>-----------------------</td>
<td>---------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td>A020/047</td>
<td>Policy P138: Structures in sites with significant values</td>
<td>Royal Forest and Bird Protection Society</td>
<td>Add a new P138(f) as follows: effects are managed in accordance with P39A</td>
<td>Wellington Water Ltd (O) Transpower NZ Limited (O) Wellington International Airport Ltd (O) CentrePort (O) The Oil Companies (O) NZ Transport Agency (O) Rangitāne (S) Powerco Ltd (O) Wellington Fish and Game Council (S) Kainga Ora Homes and Communities (O)</td>
</tr>
<tr>
<td>A031/101</td>
<td>Policy P138: Structures in sites with significant values</td>
<td>Wellington Water Ltd</td>
<td>Amend Policy P138 to clarify the meaning of “practicable” in (e) and/or to ensure that appropriate provision is made for structural works necessary to maintain or upgrade regionally significant infrastructure, such as by exempting such infrastructure from the “avoidance” requirement, or by allowing that proposed works for such infrastructure may proceed even where there are practicable alternatives, provided the proposal is the most practicable. No wording is provided.</td>
<td>Heritage New Zealand Pouhere Taonga (O) Wellington International Airport Ltd (S) Meridian Energy Limited (S) Minister of Conservation (O) CentrePort (S) NZ Transport Agency (S) Royal Forest and Bird Protection Society (O) Kainga Ora Homes and Communities (S) Kāpiti Coast District Council (S) Porirua City Council (S)</td>
</tr>
</tbody>
</table>

**Related appeal points from other sub-topics**

48 Not applicable.

**Summary of decision**

49 Policy P138 was amended in the Decision to clarify that it applies only to the coastal marine area. Reference to ‘locations’ was also added into clause (e) as the policy
exceptions should apply if there were no practicable alternative locations as well as no alternative methods.

50 The Decision stated that the addition of the “best practicable option” concept in the policy would not effectively implement the Plan's Objectives and Objective O56 in particular. The Decision concluded that guidance qualifiers such as the “best practicable option” concept in the policy would not effectively implement the Plan's Objectives, and Objective O56 in particular.

51 The relief sought by Forest and Bird, Rangitāne, and PCC was not addressed in the Decision or in the section 42A report.

Changes since the decision

52 Not applicable.

Outcome of direct discussions

53 Not applicable.

Council position

54 The Council position is that Policy P138 is suitable. The Council is concerned that the changes sought by the various infrastructure companies would result in this policy failing to give effect to Policy 11(b) of the NZCPS.

55 Council is currently conducting a review of scheduled sites in conjunction with NIWA to determine which meet the criteria set by Policy 11a of the NZCPS. Council notes that the NZCPS provides clear direction in the aforementioned policy that adverse effects on such sites must be avoided. Council does not consider that high order documents would permit lesser protection for such sites.

56 This is also the reason Council does not consider it appropriate to qualify clause (e) with “reasonably practicable” rather than “practicable” – the former is less strict and consequently imparts a lower level of protection.

57 Council considers that the substance of the amendments sought by First Gas Ltd have already been provided for in the RSI provisions discussed in Topic 6.

58 With respect to the Rangitāne and Forest and Bird appeals, Council’s preference is to avoid qualifiers and cross references to effects management provisions that are covered elsewhere in the Plan, in order to support the “plan to be read as a whole” structure, as per the discussions in Topic 6.

59 With respect to the PCC appeal, Council is wishing to understand the necessary and appropriate structures that PCC is envisaging would not already be facilitated through either sub-clause (a) or (c). There is a concern that the amendment requested could cover a
very broad range of structures that may not be appropriate under the NZCPS in these locations.

**Issues for discussion**

60 Whether the agreed in principle amendments to O12, O13 the new O12A and policies P12 and P13 resolve the issues raised in the First Gas, Wellington Water and NZ Transport Agency appeals.

61 Whether the scheduled sites meet the criteria in Policy 11a of the NZCPS to which an avoidance approach should apply.

62 Whether an effects management qualifier or cross reference is needed for the exemptions?

63 Whether further exemptions are warranted in this policy?

**Outcomes from prior mediation topics of relevance**

64 Not applicable.

---

**Issue 7: 5.7.2 Coastal management general conditions**

<table>
<thead>
<tr>
<th>GWRC Appeal point ref.</th>
<th>Provision</th>
<th>Appellant</th>
<th>Summary of appellant’s relief sought</th>
<th>Section 274 parties and position: Support (S) or Oppose (O) or Neutral (N)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A009/009</td>
<td>5.7.2 Coastal management general conditions</td>
<td>CentrePort</td>
<td>Amend condition (u) as follows: (u) CentrePort shall at all times operate in accordance with the current Port Noise Management Plan for CentrePort Ltd (2008).</td>
<td>Rangitāne (O)</td>
</tr>
<tr>
<td>A018/055</td>
<td>5.7.2 Coastal management general conditions</td>
<td>Porirua City Council</td>
<td>Amend the coastal management general conditions as follows: (k) 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</td>
<td>Minister of Conservation (O) Rangitāne (O) Wellington Fish and Game Council (O) Royal Forest and Bird (O) Kāpiti Coast District Council (S) CentrePort (S) Wellington Fish and Game (O)</td>
</tr>
<tr>
<td>GWRC Appeal point ref.</td>
<td>Provision</td>
<td>Appellant</td>
<td>Summary of appellant’s relief sought</td>
<td>Section 274 parties and position: Support (S) or Oppose (O) or Neutral (N)</td>
</tr>
<tr>
<td>-----------------------</td>
<td>-----------</td>
<td>-----------</td>
<td>-------------------------------------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>A030/040 &amp; A030/034</td>
<td>5.7.2 Coastal management general conditions &amp; Policy P150: Noise and lighting</td>
<td>Wellington International Airport Ltd</td>
<td>Rule 5.7.2(p) should be amended to make it clear that overflying aircraft are not subject to the limitations set out to apply in the CMA and are included in the list of exclusions at the foot of Rule 5.7.2(p).</td>
<td>Royal Forest and Bird (O)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(i) 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 seabed shall occur and no diversion of open coastal water or sediment discharge shall occur between 1 January and 31 May 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.</td>
<td></td>
</tr>
<tr>
<td>A031/103</td>
<td>5.7.2 Coastal management general conditions</td>
<td>Wellington Water Ltd</td>
<td>General condition 5.7.2(i) is amended to remove the requirement for all work to be contained in the coastal marine area. General condition 5.7.2(c) is amended to make provision for works necessary to clear WWL structures, such as the Nevis Street stormwater outfall.</td>
<td>Minister of Conservation (O) Royal Forest and Bird Protection Society (O) Kainga Ora Homes and Communities (S) Kāpiti Coast District Council (S) Porirua City Council (S) CentrePort (S)</td>
</tr>
</tbody>
</table>

4 Numbered (k) in the Clause 16 version of the plan
<table>
<thead>
<tr>
<th>GWRC Appeal point ref.</th>
<th>Provision</th>
<th>Appellant</th>
<th>Summary of appellant’s relief sought</th>
<th>Section 274 parties and position: Support (S) or Oppose (O) or Neutral (N)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>General condition 5.7.2(k) is amended to make allowance for stormwater structures to impede fish passage. General condition 5.7.2(l) is amended to allow for clearance of debris and accumulated sediment around stormwater structures in response to extreme weather events. No wording is provided.</td>
<td></td>
</tr>
</tbody>
</table>

**Related appeal points from other sub-topics**

65  Not applicable.

**Summary of decision**

66  The Decision led to amendments to five of the coastal management general conditions.

67  The matters under appeal by Wellington Water Ltd on conditions (c) and (i) were not addressed in the Decision.

68  Condition (k) was amended to focus on not impeding fish passage rather than providing for it. The Decision considered this is more consistent with the direction under Policy P34 and the anticipated outcome for fish passage expressed in Objective O29. The specific point raised by Wellington Water, stormwater structures impeding fish passage, was not addressed.

69  Regarding condition (l), the matter of an exemption for an emergency/extreme whether event situation was not addressed in section 42A or Right of Reply reports or in evidence from PCC, so the Decision made no amendment as no evidence to justify a change was received.

70  The WIAL appeal point was also raised by WIAL during submissions, but in the context of Policy P150. The Decision determined that based on evidence that the submitter’s concern related more to the absence of the reference to noise from overflying aircraft in the general conditions at section 5.7.2 of the proposed Plan, but did not specifically address why an exemption for aircraft noise was not added to condition (p) of the general conditions.
More broadly, the Decision did concur that from an enforcement perspective the changes proposed by WIAL would be difficult to enforce under the Plan and it would be more appropriate for aircraft noise to continue to comply with the relevant New Zealand standards for aircraft noise.

The Decision did not address the relief sought by CentrePort relating to condition (u).

Changes since the decision

A minor formatting correction was made to renumber clauses as clause (b) has been struck out.

Outcome of direct discussions

Nil.

Council position

The general conditions apply to permitted and controlled activity rules. When the general conditions are not met then the activity defaults to a discretionary activity catch-all rule. For instance, beach recontouring for coastal restoration purposes is a controlled activity under Rule R192, and requires that all coastal management general conditions are met. If those general conditions are not met, the activity would default to Rule R204, which is a discretionary activity rule for destruction, damage, deposition, and disturbance outside sites of significance.

Council considers amending condition (u) as requested by CentrePort will result in internal consistencies with other dated documents incorporated by reference. There is also a concern that removing reference to the specific dated document will result in uncertainty as to which version applies and how compliance is achieved.

Regarding the proposed amendments to condition (k), Council notes this is also a condition attached to fish passage in the beds of lakes and rivers general conditions. Council is concerned that the amendment proposed by Wellington Water would fail to give effect to Policy 11(b)(v) of the NZCPS, which directs that significant adverse effects on habitats and routes important to migratory species must be avoided.

Amending condition (l) to allow for emergency works is not necessary as this is provided for under section 330 of the RMA for local authorities for public works. Council does not consider the remainder of the PCC proposed amendment to condition (l) (e.g. inclusion of capital works) to be appropriate as it is not effects-based.

Regarding the WIAL appeal on condition (p), Council supports an exemption for aircraft noise. Council notes that noise from aircraft would be managed under relevant district plan rules and conditions on aircraft noise in the Plan are thus an unnecessary duplication.

Council is considering Wellington Water’s requirements for condition (c), but needs more information about the frequency and operational process of such events before committing...
to anything. Council notes that Rule R189 currently provides for the clearance of stormwater pipes as a permitted activity, subject to meeting conditions.

The Council sees merit in the Wellington Water proposed amendment to condition (i). If the works spread outside the CMA (e.g. to adjacent land) the conditions would, while outside the Council’s jurisdiction for a coastal marine area rule, likely be interpreted as applying to the activity. The condition does not appear to be sensible as it could result in more environmental effects than if the condition were removed (i.e. installing diversions in the CMA are expected to have more effects than say pumping seawater around a construction site through siting a pump in a nearby landward location).

**Issues for discussion**

82 The ecological impacts of the proposed amendments to (k) and (l), especially on migratory fish species.

83 Operational details of works required for stormwater clearance and the environmental effects of these activities, and whether Rule R189 is sufficient provision for these activities.

84 The necessity and appropriateness of the other amendments sought to the general conditions.

**Outcomes from prior mediation topics of relevance**

85 Not applicable.

---

**Issue 8: Rule R149: Maintenance or repair of structures - permitted activity**

<table>
<thead>
<tr>
<th>GWRC Appeal point ref.</th>
<th>Provision</th>
<th>Appellant</th>
<th>Summary of appellant’s relief sought</th>
<th>Section 274 parties and position: Support (S) or Oppose (O) or Neutral (N)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A009/010</td>
<td>Rule R149: Maintenance or repair of structures - permitted activity</td>
<td>CentrePort</td>
<td>Amend the note in Rule R149 as follows: This rule applies to all existing coastal marine area structures, including seawalls, navigation aids and port structures except those heritage structures identified in Schedule E1-E3 (in which case R168 applies), and structures in the Commercial Port Area (in which case R173 applies).</td>
<td>Rangitāne (O) Royal Forest and Bird (O)</td>
</tr>
</tbody>
</table>
Related appeal points from other sub-topics

The appeals on this provision are also relevant to topic 10: Historic heritage.

Summary of decision

The Decision deleted condition (g). The deletion of clause (g) related both to: the cascade of rules addressing the repair, maintenance, additions and alterations to structures in the CMA under Rules R149-R167; and the relationship between those rules and the rules for heritage structures in the CMA (Rules R168-R172), and sought to add greater clarity in these respects.

The Decision also added an additional note at the end of the rule to clarify the rule applies to all existing CMA structures except those in Schedules E1-E3, which are addressed under Rule R168.

The specific issue raised by CentrePort was not considered in the Decision.

Changes since the decision

A minor formatting correction was made to renumber clauses as clause (g) has been struck out.

Outcome of direct discussions

Nil.

Council position

Council supports the amendment via the note request and consequential amendment to R174. The note simply clarifies that there is a specific permitted activity rule for structures...
within the Commercial Port Area and the consequential amendment provides useful clarification for plan users around this too. R149 and R173 are both permitted activity rules and R173 is not less stringent (unlike R149 it specifically lists scheduled heritage sites where activities cannot occur), so this amendment is not expected to have an adverse environmental result or create a loophole.

Issues for discussion

93 Nil – Council views this as a straightforward and minor amendment.

Outcomes from prior mediation topics of relevance

94 Not applicable.

---

### Issue 9: Rule R154: New temporary structures outside sites of significance - permitted activity

<table>
<thead>
<tr>
<th>GWRC Appeal point ref.</th>
<th>Provision</th>
<th>Appellant</th>
<th>Summary of appellant’s relief sought</th>
<th>Section 274 parties and position: Support (S) or Oppose (O) or Neutral (N)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A031/012</td>
<td>Rule R154: New temporary structures outside sites of significance - permitted activity</td>
<td>Wellington Water Ltd</td>
<td>Rule R154 is amended to provide for temporary damming and diversion of coastal water associated with temporary structures, subject to reasonable conditions. No wording is provided.</td>
<td>CentrePort (S) Royal Forest and Bird (O) Kainga Ora Homes and Communities (S) Kāpiti Coast District Council (S) Porirua City Council (S) Minister of Conservation (O)</td>
</tr>
</tbody>
</table>

Related appeal points from other sub-topics

95 Not applicable.

Summary of decision

96 Rule R154 was retained as notified in the Decision, with the only change being the insertion of 'the placement' at the start of the rule to align it more closely with the language of the RMA. The Decision did not consider temporary damming and diversion of water in the context of the CMA.

Changes since the decision

97 Not applicable.
Outcome of direct discussions

98 Nil.

Council position

99 The rule already provides for diversion of open coastal water. Council is unclear on the need for damming and diversion of coastal water sought and if this differs to the diversion provision already included in the rule. If so, Council would appreciate some information from the appellant on when, where, and why they would need to dam and divert coastal water.

100 Given the significant impacts on coastal ecology and geomorphology that could result from damming and diversion of coastal water, Council is concerned with the amendment without more information.

Issues for discussion

101 When, where and why coastal water would need to be dammed and/or diverted, and the likely environmental impacts of these activities and as such if it is appropriate for them to be permitted activities.

Outcomes from prior mediation topics of relevance

102 Not applicable.

________________________________________________________________________________

Issue 10: Activities associated with the National Grid⁵

<table>
<thead>
<tr>
<th>GWRC Appeal point ref.</th>
<th>Provision</th>
<th>Appellant</th>
<th>Summary of appellant’s relief sought</th>
<th>Section 274 parties and position: Support (S) or Oppose (O) or Neutral (N)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A025/017</td>
<td>New Rule R156A</td>
<td>Transpower NZ Ltd</td>
<td>Add a new Rule R156A as follows: Rule R156A: Activities associated with the National Grid on the foreshore and in the Cook Strait Cable Protection Zone, including those within Schedule C (mana whenua sites of significance) – permitted activity</td>
<td>Royal Forest and Bird Protection Society (O)</td>
</tr>
<tr>
<td>A025/014</td>
<td>Consequential amendments to Rules R153, R155-156 and R164 to refer to this new rule.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

⁵ Note this issue referred to as Issue 10 & 11 in the Commissioner’s directions of 2 April. The issues were consolidated following the issuance of those directions.
<table>
<thead>
<tr>
<th>GWRC Appeal point ref.</th>
<th>Provision</th>
<th>Appellant</th>
<th>Summary of appellant’s relief sought</th>
<th>Section 274 parties and position: Support (S) or Oppose (O) or Neutral (N)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>The following activities associated with the use, operation, maintenance, upgrade or development of the National Grid within the Cook Strait Cable Protection Zone, including within sites of significance listed in Schedule C (mana whenua).</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(a) Replacement structures</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(b) New temporary structures</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(c) Inspection, surveying, maintenance, repair, additions or alterations to existing structures</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(d) Removal or demolition of structures</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(e) Use of motor vehicles and</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(f) General surface water and foreshore activities (including launching, retrieving or temporary mooring of vessels)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Including any associated:</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(g) Occupation of space in the common marine and coastal area</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(h) Disturbance of the foreshore and seabed (including any removal of sand, shingle, shell or other natural material)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(i) Deposition in, on or under the foreshore or seabed</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(j) Discharge of contaminants</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(k) Diversion of open coastal water</td>
<td></td>
</tr>
<tr>
<td>GWRC Appeal point ref.</td>
<td>Provision</td>
<td>Appellant</td>
<td>Summary of appellant’s relief sought</td>
<td>Section 274 parties and position: Support (S) or Oppose (O) or Neutral (N)</td>
</tr>
<tr>
<td>------------------------</td>
<td>-----------</td>
<td>-----------</td>
<td>-------------------------------------</td>
<td>-------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Is a permitted activity, provided the following conditions are met:</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(l) The structure shall not cause a hazard to navigation</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(m) Any motor vehicles shall take the most direct route, and shall only operate within the area necessary to carry out the activity to ensure minimal disturbance to the foreshore or seabed, and</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(n) Any disturbance to the foreshore and seabed shall be the minimum area necessary for the proposed activity</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(o) No explosives shall be used in the removal or demolition</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(p) Except for structures used for maintenance, inspection and survey, for any new structures, written notice detailing the scale and location of the structure, and the timing of construction and removal shall be given five working days before work commences to:</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• the Wellington Regional Council Harbourmaster, and</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Maritime New Zealand, and</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• For activities within the Oterongo (Oteranga) Bay area listed on Schedule C (mana whenua), Ngati Toa Rangatira.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(p) The activity shall comply with the coastal management general</td>
<td></td>
</tr>
<tr>
<td>GWRC Appeal point ref.</td>
<td>Provision</td>
<td>Appellant</td>
<td>Summary of appellant’s relief sought</td>
<td>Section 274 parties and position: Support (S) or Oppose (O) or Neutral (N)</td>
</tr>
<tr>
<td>------------------------</td>
<td>-----------</td>
<td>-----------</td>
<td>--------------------------------------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>A025/018</td>
<td>Rule R160: New structures and disturbance associated with motor vehicles inside the Cook Strait Cable Protection Zone and adjacent foreshore, and inside a mana whenua site of significance - discretionary activity</td>
<td>Transpower NZ Ltd</td>
<td>Add a new clause (i) for reclamation.</td>
<td>Royal Forest and Bird Protection Society (O)</td>
</tr>
</tbody>
</table>

Related appeal points from other sub-topics

103 The relief sought here relates to Topic 6: Balance of RSI, as this is where other specific provisions for Transpower were discussed.

Summary of decision

104 The Decision adopted the reasoning of the section 42A Report, which concluded that the proposed R156A was not appropriate. The reasoning was that the coastal management general conditions have been assessed as the minimum conditions necessary for activities to occur where the effects are less than minor. The section 42A report considered that the proposed Rule R156A did not provide for the activities where the effects are less than minor and did not protect the Schedule C (mana whenua) site where the Cook Strait cables enter the North Island. Furthermore, it was stated that the changes proposed through proposed rule R156A were extensive and would not give effect to the objectives of the proposed Plan and the NZCPS.

105 Rule R160 was amended to include a specific reference to the National Grid, and include the foreshore adjacent to the Cook Strait Cable Protection Zone as well as Schedule C sites. This was the result of expert conferencing and a joint witness statement between Council and Transpower Ltd. The planning Right of Reply stated that the changes would make the rule more efficient and effective.

Changes since the decision
Not applicable – the appeal is requesting a new rule.

Outcome of direct discussions

Nil.

Council position

Council notes that there are already other rules that provide for aspects of Transpower’s operations in the Cook Strait Cable Protection Zone as permitted activities including within scheduled sites, such as motor vehicles for the maintenance, upgrade, and operation of RSI (R197), the maintenance and repair of structures (R149), and minor additions or alterations to structures (R150). There are further rules which permit the other requested activities where outside of scheduled sites including new temporary structures (R154) and removal or demolition of structures (R152). In the case of vessel operations, the temporary mooring of vessels would be covered by R154 and the launching and retrieval of them is permitted by R197.

Council notes that the foreshore inside the Cook Strait Cable Protection Zone at Oterongo/Oterango Bay is also a significant mana whenua site under Schedule C, with values relating to mahinga kai (customary resource gathering), urupa (burial grounds), and wāhi tapu (sacred sites).

This means that Rule R160 allows for new structures and disturbance associated with motor vehicles on this scheduled site as a discretionary activity. Council considers that the direction within the NPS-ET does mean that discretionary activity status for activities that have the potential to affect cultural sites is inappropriate. Discretionary activity status for some activities inside a portion of the Cook Strait Cable Protection Zone, but not all operational, maintenance and minor upgrade activities in this small area does not fail to give effect to Policies 2 and 5 of the NPS-ET.

It is noted that some higher risk activities such as dumping (R212), reclamation and drainage (R215), or other damage, destruction, disturbance, or deposition (R205) are non-complying activities. However, the Schedule C site only consists of Oterango/Oteranga Bay itself and the nearby foreshore – it does not extend out into Cook Strait, so the non-complying activity status for reclamation (the matter at issue in the second appeal here) only applies to a small geographic area.

Council is open to discussing an amendment. While reclamation is provided for as a discretionary activity under Rule R214, the area where the Cook Strait Cable Protection Zone meets land in Oterongo/Oteranga Bay is a site of significance scheduled under Schedule C. Under existing provisions reclamation inside this site of significance is a non-complying activity under Rule R215.

Rule R160 provides a less stringent activity status for disturbance related to the Cook Strait Cable Protection Zone, including when that disturbance is inside a site of significance to mana whenua (a Schedule C site). As the Plan already provides for disturbance inside this
particular Schedule C site with a less stringent activity status, Council considers that it may be reasonable to add reclamation to this rule as well if the appellant can clarify why reclamation would be necessary for providing for the National Grid in this specific location.

Issues for discussion

114 Spatial application of the proposed Rule R156A, whether it is intended to apply to the Cook Strait cable or other existing assets, i.e. the foreshore more broadly.

115 Specific activities that are not adequately covered by the existing permitted rules or rule R160.

116 Possibility of incorporating any activities not already captured into existing rule R160 (discretionary activity).

117 The need and nature of reclamation relating to the National Grid.

Outcomes from prior mediation topics of relevance

118 Nil.

Issue 11: Rule R161: New structures, additions or alterations to structures outside sites of significance - discretionary activity & Rule R162: New structures, additions or alterations to structures inside sites of significance - non-complying activity

<table>
<thead>
<tr>
<th>GWRC Appeal point ref.</th>
<th>Provision</th>
<th>Appellant</th>
<th>Summary of appellant’s relief sought</th>
<th>Section 274 parties and position: Support (S) or Oppose (O) or Neutral (N)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A009/011 A009/022</td>
<td>Rule R161: New structures, additions or alterations to structures outside sites of significance - discretionary activity&lt;br&gt;Rule R162 New structures, additions or alterations to structures inside sites of significance -</td>
<td>CentrePort</td>
<td>Amend Rule R161 to make it clear that the rule applies to the Commercial Port Area. And reciprocal amendment to Rule R162.</td>
<td>Minister of Conservation (O)&lt;br&gt;Kiwirail Holdings Ltd (S)&lt;br&gt;Rangitāne (O)&lt;br&gt;Royal Forest and Bird (O)</td>
</tr>
</tbody>
</table>

6 Note this was issue 12 at the time of the Commissioner’s direction of 2 April and not issue 11.
<table>
<thead>
<tr>
<th>GWRC Appeal point ref.</th>
<th>Provision</th>
<th>Appellant</th>
<th>Summary of appellant’s relief sought</th>
<th>Section 274 parties and position: Support (S) or Oppose (O) or Neutral (N)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A018/056, A018/057</td>
<td>Rule R161: New structures, additions or alterations to structures outside sites of significance - discretionary activity&lt;br&gt;Rule R162: New structures, additions or alterations to structures inside sites of significance - non-complying activity</td>
<td>Porirua City Council</td>
<td>Delete the references to the schedules from R161 and delete Rule R162.</td>
<td>Minister of Conservation (O)&lt;br&gt;Wellington Water Ltd (S)&lt;br&gt;Wellington International Airport Ltd (N)&lt;br&gt;CentrePort (S)&lt;br&gt;The Oil Companies (N)&lt;br&gt;Powerco Ltd (N)&lt;br&gt;Wellington Fish and Game Council (O)&lt;br&gt;Royal Forest and Bird Protection Society (O)&lt;br&gt;Kāpiti Coast District Council (S)</td>
</tr>
</tbody>
</table>

**Related appeal points from other sub-topics**

119 Not applicable.

**Summary of decision**

120 The Decision made minor clerical amendments to Rules R161 and R162 under Clause 16 of the RMA to enhance navigation between these rules and all relevant other permitted, controlled, restricted discretionary, discretionary and prohibited activity rules.

121 The Decision adopted the position taken in the section 42A report that scheduled sites in the proposed Plan are important areas of significance that require protection from use and development, and thus removing one or more schedules from R161 and R162 is not appropriate.

122 Amending the Plan to make it clear that both R161 and R162 apply to the Commercial Port Area was not addressed in the section 42A report or the Decision.

**Changes since the decision**

123 Not applicable.
Outcome of direct discussions

124 Nil.

Council position

125 Council is wishing to clarify whether CentrePort are simply seeking that the Plan makes it clearer that R161 and R162 apply to the Commercial Port Area when the port specific permitted and controlled rules at R173, R174 and R175 are not relevant (e.g. when conditions are not met). In this situation, the Council understands that CentrePort is simply seeking the same rule regime as for other activities covered by rules R161 and R162 – discretionary status outside the sites of significance and non-complying within. If this is the scope of change sought by the CentrePort appeal, the Council is open to reviewing wording to this effect.

126 Council is concerned about the PCC appeal requesting deleting of R162 and allowing scheduled sites to be managed under R161 as a discretionary activity (which would be the result of removing references to the scheduled sites from R161 and deleting R162). This would be a significant change to the Plan’s protection of sites of significance and (in the context of Schedule F sites) would be less effective in giving effect to NZCPS Policy 11a, which provides explicit direction to avoid adverse effects on threatened or significant ecosystems and species. A non-complying activity status is effective in giving effect to this direction. As Schedule F4 lists sites with significant indigenous biodiversity values in the CMA, and F5 lists habitats with significant indigenous biodiversity values in the CMA, listing these schedules and having rules that provide a strong avoidance signal are necessary to give effect to the NZCPS.

127 The Plan contains an objective, O36, which seeks that significant geological features in the CMA are protected from inappropriate use and development. Removing reference to Schedule J from these rules means that the rules could be less effective in giving effect to this objective within the Plan. It is noted that geological features are also recognised in the NZCPS in the context of natural character preservation (Policy 13) and natural feature and landscape protection (Policy 14).

128 Similarly, the reference to Schedule C sites gives effect to objective O14 of the Plan in relation to protecting sites with significant mana whenua values from use and development that will adversely affect their values. These sites have arisen to give effect to the requirements of Policy 2 of the NZCPS concerning the Treaty of Waitangi and kaitiakitanga in the coastal environment.

Issues for discussion

129 Clarification that the Council’s understanding of the CentrePort appeal is correct and if so, what is the specific wording sought by CentrePort to clarify the applicability of rules R161 and R162 to the Commercial Port Area?
In respect of the PCC appeal, a discussion is sought to ascertain if it is possible to narrow down the non-complying activity concern as per the points below:

- Which are the schedules that the appellant (and s274 parties seeking this change) are concerned about having a non-complying activity status for?
- Are there any concerns about the identification process for the schedules at issue?
- What are the actual clashes between the schedules at issue with infrastructure / appellant activities?
- Are there any known future structures that will need to overlap with a scheduled site and if so, are there directly relevant policies that prevent a consent being considered pursuant to s104D(1)(b) of the RMA?
- What does the higher order direction say about those scheduled sites that might indicate a policy block and non-complying activity status is appropriate, e.g. is the NZCPS policy strict avoidance or something more nuanced?

Outcomes from prior mediation topics of relevance

Not applicable.
APPENDIX A - RELEVANT PROVISIONS (DECISIONS VERSION - WITH CLAUSE 16 CHANGES)

| Noise sensitive activities | Any residential activity, any early childhood education centre, or any hotel, motel or other accommodation activity. |

Chapter 3 Objectives

3.13 Coastal management

Objective O53
Use and development shall not be located in the coastal marine area has except where it has a functional need or operational requirement to be located there., unless the use and development is in the Lambton Harbour Area.

Objective O55
The need for public open space in the coastal marine area is recognised.

Chapter 4 Policies

4.10.1 Primary coastal policies
Policy P132: Functional need and efficient use
Use and development in the coastal marine area shall:

(a) have a functional need, or

(b) have an operational requirement to locate within the coastal marine area, and no reasonable or practicable alternative to locating in the coastal marine area, or

(c) be in the Lambton Harbour Area; or

(d) for any other activity, it shall have no reasonable or practicable alternative to locating in the coastal marine area,

and in respect of (a), (b) and (ed):

(e) only use the minimum area necessary, and

(f) be made available for public or multiple use where appropriate, and

(g) result in the removal of structures once redundant, and

(h) concentrate in locations where similar use and development already exists where practicable.
Policy P134: Public open space values and visual amenity

The adverse effects of new use and development on public open space and visual amenity viewed within, to and from the coastal marine area shall be minimised by:

(a) having particular regard to any relevant provisions contained in any bordering territorial authorities’ proposed and/or operative district plan;

(b) managing use and development to be of a scale, location, density and design which is compatible with the natural character, natural features and landscapes and amenity values of the coastal environment and the functional needs, operational requirements and locational constraints, of the Commercial Port Area and the Wellington International Airport, and

(c) taking account of the future need for public open space in the coastal marine area.

4.10.2 Structures

Policy P138: Structures in sites with significant values

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:

(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

(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

(c) the structure will provide for navigational safety, or

(d) it is necessary to enable the development, operation, maintenance and upgrade of regionally significant infrastructure,

and in respect of (a) to (d):

(e) there are no practicable alternative locations or methods of providing for the activity.
Policy P150: Noise and lighting
Noise in the coastal marine area shall be managed by applying the general conditions as set out in section 5.7.2 of the Plan or by adopting the best practicable option to ensure that the emission of noise does not exceed a reasonable level. Exterior lighting on structures shall avoid being directed at sensitive activities, streets, roads and navigation tracks and shall minimise effects on other users and wildlife, unless it is for operational health and safety reasons.

Chapter 5.7 Coastal management rules
5.7.2 Coastal management general conditions
Coastal management general conditions
Coastal management general conditions for activities in the coastal marine area that apply when specified in a rule.

Disturbance
(f) the coastal marine area, including river mouths shall not be disturbed to an extent greater than that required to undertake the activity, and
(b) any disturbance of the foreshore or seabed is removed in 48 hours, and
(b) there is no disturbance of the foreshore or seabed to a depth greater than 0.5m below the seabed or foreshore within the Hutt Valley Aquifer Zone shown on Map 30, and unless the activity is for the replacement of an existing submarine telecommunications cable, in which case the depth of disturbance must be no greater than 2.0m, and
(c) all machinery, equipment and materials used for the activity shall be removed from the foreshore or seabed at the completion of the activity, and

Discharges
(d) There shall be no discharge of contaminants (excluding sediment which is addressed by clause (f)) to water or the foreshore or seabed, except where the minor discharge is permitted by another rule in this Plan, and
(e) The discharge of sediment to water from an activity in, on, over or under the foreshore or seabed in the coastal marine area shall meet the following:
(i) the release of sediment associated with the activity shall not be undertaken for more than five consecutive days, and for more than 12 hours per day, and
it shall not, after reasonable mixing, cause any conspicuous change in the colour of the water in the receiving water or any change in horizontal visibility greater than 30% more than 24 hours after the completion of the activity, and

**Erosion and scouring**

(f) The activity shall not result in erosion or scouring of river banks (that are part of the coastal marine area) and shall not result in flooding of a neighbouring property, and

**Diversion**

(g) No structure shall alter the natural course of a river (that is part of the coastal marine area), including any diversion of open coastal water during flood events, and

**Note**

Tree planting or vegetative bank edge protection works that are limited to the banks of a river and do not extend into the active channel are not considered to alter the course of the river for the purpose of this condition.

(h) Any diversion of open coastal water undertaken as part of an activity shall only be temporary and for a period no longer than that required to complete the activity. All work shall be contained within the coastal marine area, and any diversion channel required must have sufficient capacity to carry the same flow as the original channel, so as not to cause flooding or erosion of any neighbouring property, and

**Dumping**

(i) Demolition materials shall not be used for any purpose in the coastal marine area, and

**Fish passage**

(j) Any structure constructed in the coastal marine area shall not impede provide for fish passage between coastal and fresh water habitat (including between fresh water and coastal water) at all times, unless a temporary restriction is required for construction activities, and

**Inanga spawning**

(k) 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 seabed shall occur and no diversion of open coastal water or sediment discharge shall occur between 1 March January and 31 May, and
Design and maintenance of structures

(l) Any structure (other than stormwater network structures) shall be designed and maintained so that it does not reduce the ability of the river (that is part of the coastal marine area) to convey flood flows, including the management of flood debris accumulated against the structure, and

Refuelling

(m) No refuelling or cleaning of equipment shall take place on the foreshore or seabed in the coastal marine area (excluding vessels in the Commercial Port Area), and fuel storage shall not occur at a location where fuel can enter coastal water, and

Lighting and glare

(n) All exterior lighting shall be managed to avoid the spill of light or glare that is:

(i) a hazard to traffic safety on streets outside the coastal marine area, and

(ii) a hazard to navigation in the coastal marine area,

unless the lighting is necessary for public safety reasons or operational requirements, and

Noise in the coastal marine area

(o) Noise from activities located outside the Commercial Port Area shown on Map 32, Map 33 and Map 34 and the Lambton Harbour Area (Northern Zone) shown on Map 32 in the coastal marine area shall meet the following noise standards:

(i) the activity shall not cause excessive noise (defined in section 326 of the Resource Management Act 1991) outside the coastal marine area, and

(ii) between the hours of 7.00am and 11.00pm, the noise level (Leq) measured at any point on the nearest Residential Area boundary shall not exceed 55dB(A), and

(iii) between the hours of 11.00pm and 7.00am, the noise level (Leq) measured at any point on the nearest Residential Area boundary shall not exceed 45dB(A), and

(iv) single events of noise shall not exceed an Lmax sound level of 75dB(A), and
(v) noise shall be measured and assessed in accordance with NZS 6802:2008 Acoustics – Environmental Noise, and

(vi) any construction activities shall meet standards specified in Table 1 of NZS 6803:1999 Acoustics – Construction Noise, and

(vii) helicopter landing areas shall meet the standards specified for residential areas in Table 1 of NZS 6807:1994 Noise management and land use planning for helicopter landing areas, and

conditions (i) to (iv) shall not apply to the following:

(viii) noise generated by navigational aids, safety signals, warning devices, or emergency pressure relief valves, or

(ix) noise generated by emergency work arising from the need to protect life or limb or prevent loss or serious damage to property or minimise or prevent environmental damage, or

(x) commercial firework displays, and

conditions (ii) to (iv) shall not apply to temporary military training activities undertaken for defence purposes. Noise emission as a result of temporary military training measured on a line 20m from and parallel to the facade of any dwelling used for accommodation or the legal boundary where this is closer to the dwelling or building shall meet the following:

(xi) for all activities excluding the use of explosives:

<table>
<thead>
<tr>
<th>Time (any day)</th>
<th>Limits (dB(A))</th>
<th>L_{eq}</th>
<th>L_{max}</th>
</tr>
</thead>
<tbody>
<tr>
<td>0000 – 0630</td>
<td>45</td>
<td>45</td>
<td>75</td>
</tr>
<tr>
<td>0630 – 0730</td>
<td>60</td>
<td>60</td>
<td>75</td>
</tr>
<tr>
<td>0730 – 1800</td>
<td>75</td>
<td>75</td>
<td>90</td>
</tr>
<tr>
<td>1800 – 2000</td>
<td>70</td>
<td>70</td>
<td>85</td>
</tr>
<tr>
<td>2000 – 2400</td>
<td>45</td>
<td>45</td>
<td>75</td>
</tr>
</tbody>
</table>

(xii) for activities involving the use of explosives: 122dB(C) during daylight hours, and

(p) Noise from port-related activities located within the Commercial Port Area shown on Map 32, Map 33 and Map 34 and the Lambton Harbour Area (Northern Zone) shown on Map 32 shall comply with the following noise standards:
the activity shall not cause excessive noise (defined in section 326 of the Resource Management Act 1991) outside the coastal marine area, and

(ii) noise shall be measured in accordance with the requirements of NZS 6801:2008 Acoustics – Measurement of environmental sound and NZS 6809:1999 Port noise management and land use planning, and

(iii) noise from port-related activities in a Commercial Port Area and the part of the Lambton Harbour Area shown on Map 32 shall not exceed the following at or beyond the Port Noise Control Line as shown on Map 32, Map 33 and Map 34, and

<table>
<thead>
<tr>
<th>Time (any day)</th>
<th>Limits (dB(A))</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>L_{dn}</td>
</tr>
<tr>
<td>Any 5 consecutive 24 hour periods</td>
<td>65</td>
</tr>
<tr>
<td>Any 24 hour period</td>
<td>68</td>
</tr>
<tr>
<td>10pm – 7am</td>
<td>85</td>
</tr>
</tbody>
</table>

(iv) CentrePort shall undertake a noise monitoring programme to ensure that noise from port-related activities comply with limits in (q)(iii) at the Port Noise Control Line as shown on Map 32, Map 33 and Map 34. This monitoring will be undertaken in accordance with the Port Noise Management Plan for CentrePort Limited (Dec 2008) and the information shall be reported to the Wellington Regional Council, and

conditions (q)(i), (q)(iii) and (q)(iv) shall not apply to the following:

(v) noise generated by navigational aids, safety signals, warning devices or emergency pressure relief valves, and

(vi) noise generated by emergency work arising from the need to protect life or limb or prevent loss or serious damage to property or minimise or prevent environmental damage, and

(vii) noise generated by construction activities which shall meet the standards specified in Table 1 of NZS 6803:1999 Acoustics – Construction Noise, and

(viii) noise generated by helicopter landing areas which shall meet the standards specified for commercial areas in Table 1 of NZS 6807:1994 Noise management and land use planning for helicopter landing areas, and
(q) The following noise standards shall only apply to activities in the Commercial Port Area at Seaview Wharf shown on Map 34 that are controlled by a rule in this Plan, are located in the coastal marine area and refer to the coastal marine area general conditions within the rule:

(i) the activity shall not cause excessive noise (defined in section 326 of the Resource Management Act 1991) outside the coastal marine area at the nearest residential area boundary, and

(ii) the noise level measured at any point on the nearest residential area boundary shall not exceed:

<table>
<thead>
<tr>
<th>Time (any day)</th>
<th>Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$L_{eq}$</td>
</tr>
<tr>
<td>7am – 11pm</td>
<td>60 dB(A)</td>
</tr>
<tr>
<td>11pm – 7am</td>
<td>45 dB(A)</td>
</tr>
</tbody>
</table>

(iii) noise shall be measured in accordance with *NZS 6801:2008 Acoustics – Measurement of environmental sound*. Corrected levels shall be determined in accordance with *NZS 6802:2008 Acoustics – Environmental Noise*, and conditions (r)(i) and (r)(ii) shall not apply to the following:

(iv) noise generated by navigational aids, safety signals, warning devices, or emergency pressure relief valves, and

(v) noise generated by emergency work arising from the need to protect life or limb or prevent loss or serious damage to property or minimise or prevent environmental damage, and

(vi) noise generated by construction activities which shall meet the standards specified in Table 1 of *NZS 6803:1999 Acoustics – Construction Noise*, and

(vii) noise generated by helicopter landing areas which shall meet the standards specified for Commercial areas in Table 1 of *NZS 6807:1994 Noise management and land use planning for helicopter landing areas*, and

(r) Habitable rooms in buildings containing noise sensitive activities in a Commercial Port Area, the Lambton Harbour Area and the Lambton Harbour Area (Northern Zone), shown on Map 32, Map 33 and Map 34, shall be protected from noise arising from outside the building by ensuring the external sound insulation level achieves the following minimum performance standards:
<table>
<thead>
<tr>
<th>Area</th>
<th>Planning Map</th>
<th>Performance standard</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial Port Area</td>
<td>Map 32, Map 33, Map 34</td>
<td>$D_{n,T,w} + C_T &gt; 35 \text{ dB}$</td>
</tr>
<tr>
<td>Lambton Harbour Area (Northern Zone)</td>
<td>Map 32</td>
<td>$D_{n,T,w} + C_T &gt; 35 \text{ dB}$</td>
</tr>
<tr>
<td>Lambton Harbour Area</td>
<td>Map 32 (excluding northern zone)</td>
<td>$D_{n,T,w} + C_T &gt; 30 \text{ dB}$</td>
</tr>
</tbody>
</table>

(s) Where bedrooms with openable windows are proposed, a positive supplementary source of fresh air ducted from outside is required at the time of fit-out. For the purposes of this requirement, a bedroom is any room intended to be used for sleeping. The supplementary source of air is to achieve a minimum of 7.5L/s per person. The required airflow level is based on the minimum standard for habitable spaces set out in *NZS 4303:1990 Ventilation for Acceptable Indoor Air Quality*, and

*Port Noise Management Plan*

(t) CentrePort shall at all times operate in accordance with the *Port Noise Management Plan for CentrePort Ltd (December 2008)*.
5.7.3 Maintenance, repair, additions and alterations to existing structures

Rule R149: Maintenance or repair of structures – permitted activity

The maintenance or repair of a structure in the coastal marine area, including any associated:

(a) occupation of space in the **common marine and coastal area**, and

(b) disturbance of the foreshore or seabed, and

(c) deposition in, on or under the foreshore or seabed, and

(d) discharge of contaminants, and

(e) diversion of open coastal water

is a permitted activity, provided the following conditions are met:

(f) the maintenance and repair of the structure is contained within the form of the existing structure and there is no increase in length, width, or height of the existing structure (except for increases for the purposes of replacement, removal and alterations of existing utility services, electric or aerial telecommunications cables/conductors/pipelines where these activities will not result in increases in design voltage and the new or altered cables/conductors/pipelines will not be lower in height above the foreshore or seabed), and

(g) for structures identified in Schedule E1 (heritage structures), the materials used for maintenance and repair of the structure or match the existing structures in, form and appearance, and

(g) the activity shall comply with the coastal management general conditions specified above in Section 5.7.2.

*Note*

Repainting is permitted by this rule and this rule applies to structures listed in Schedule E1 (heritage structures), Schedule E2 (wharves and boatsheds) and Schedule E3 (navigation aids) and structures in the Commercial Port Area.

This rule applies to all existing coastal marine area structures, including seawalls, navigation aids and port structures except those heritage structures identified in Schedules E1-E3 (in which case R168 applies)
Rule R151: Additions or alterations to structures – controlled activity

The addition or alteration to a structure and the associated use of the addition in the coastal marine area, including any associated:

(a) occupation of space in the **common marine and coastal area**, and
(b) disturbance of the foreshore or seabed, and
(c) deposition in, on or under the foreshore or seabed, and
(d) discharge of contaminants, and
(e) diversion of open coastal water

that are not permitted by Rule R149 or Rule R150, is a controlled activity, provided the following conditions are met:

(f) the structure is not identified in Schedule E1 (heritage structures), Schedule E2 (wharves and boatsheds) or Schedule E3 (navigation aids), and
(g) the structure is not located within a **navigation protection area** shown on Map 49, or in an airport height restriction area shown on Map 50 and 51, and
(h) there is no change in the use of the structure, and
(i) the structure is not a **seawall**, and
(j) the structure is not in the **Commercial Port Area**, and
(k) the addition shall add no more than 10m horizontal projection and 3m vertical projection to the structure as it existed on the date of **31 July 2015** public notification of the Proposed Natural Resources Plan (31.07.2015), and

the activity shall comply with the coastal management general conditions specified above in Section 5.7.2.

**Matters of control**

1. The use of the structure
2. Effects on public access
3. Effects on public open space and visual amenity
4. Effects on coastal **natural processes** including effects on shoreline stability in the vicinity and adjacent areas
5. Effects on a site or habitat identified in Schedule C (mana whenua), Schedule F2c (birds-coastal), Schedule F4 (coastal sites), Schedule F5 (coastal habitats), or Schedule J (geological features) or Schedule K (surf breaks).

**Notification**

In respect of Rule R151 applications are precluded from public notification (unless special circumstances exist).

**Note**

Rule R173 and Rule R174 applies to additions and alterations in the **Commercial Port Area**.

Permission may be required from the relevant city or district council in respect of the Building Act 1991 or other legislation or bylaws.

**Rule R153: Removal or demolition of a structure or part of a structure – restricted discretionary activity**

The removal or demolition of a structure or part of a structure in the coastal marine area, including any associated:

(a) disturbance of the foreshore or seabed, and
(b) deposition in, on or under the foreshore or seabed, and
(c) discharge of contaminants, and
(d) diversion of open coastal water

that is not permitted by Rule R152 and is not a discretionary activity under Rule R172 or Rule R166, or non-complying under Rule R162 is a restricted discretionary activity.

**Matters for discretion**

1. Effects on public access
2. Effects on public open space and visual amenity
3. Effects of disturbance, deposition, discharge and diversion associated with the removal
4. Effects on a site or habitat identified in Schedule C (mana whenua), Schedule F4 (coastal sites) or Schedule F5 (coastal habitats)
5. Lighting and noise
6. Navigational safety including the notification of the Wellington Regional Council Harbourmaster and Maritime New Zealand
5.7.5 New and replacement structures (including temporary structures)

Rule R154: New temporary structures outside sites of significance – permitted activity

The placement of a new temporary structure and the associated use of the structure in the coastal marine area, including any associated:

(a) occupation of space in the common marine and coastal area, and
(b) disturbance of the foreshore or seabed, and
(c) deposition in, on or under the foreshore or seabed, and
(d) discharge of contaminants, and
(e) diversion of open coastal water

is a permitted activity, provided the following conditions are met:

(f) the structure is outside a site or habitat identified in Schedule C (mana whenua), Schedule F4 (coastal sites), Schedule F5 (coastal habitats) or Schedule J (geological features), and

(g) the structure is outside a navigation protection area shown on Map 49, or airport height restriction areas shown on Maps 50 and 51, and

(h) the structure shall be maintained in a safe condition at all times, and

(i) the entire structure shall be removed after use, and

(j) if the structure is on a wharf identified in Schedule E2 (wharves and boatsheds), the temporary structure shall not cause permanent physical damage to the wharf, and

(k) the structure shall not include advertising or marketing signage, and

(l) the structure shall not cause a hazard to navigation, and

(m) the structure shall not be in place for a period exceeding a total of 31 days or part days during a 12 month period, inclusive of the placement and removal, and

(n) the structure shall not prevent public access to and along the foreshore, and

(o) written notice detailing the scale and location of the structure and the timing of construction and removal shall be given five working days before work commences to:

(i) the Wellington Regional Council Harbourmaster, and
(ii) Maritime New Zealand,

(p) the activity shall comply with the coastal management general conditions specified above in Section 5.7.2.

Rule R155: New temporary structures – restricted discretionary activity

The placement of a new temporary structure and the associated use of the structure in the coastal marine area, including any associated:

(a) occupation of space in the common marine and coastal area, and
(b) disturbance of the foreshore or seabed, and
(c) deposition in, on or under the foreshore or seabed, and
(d) discharge of contaminants, and
(e) diversion of open coastal water

that is not permitted by Rule R154 is a restricted discretionary activity.

Matters for discretion

1. Use of the structure
2. Effects on public access
3. Effects on public open space and visual amenity
4. Effects of disturbance, deposition, discharge and diversion associated with the activity
5. Effects on coastal natural processes including effects on shoreline stability in the vicinity and adjacent areas
6. Effects on a site or habitat identified in Schedule C (mana whenua), Schedule F4 (coastal sites), Schedule F5 (coastal habitats) or Schedule J (geological features)
7. Effects on the heritage values of structures identified in Schedule E1 (heritage structures) or Schedule E2 (wharves and boatsheds)
8. Lighting and noise
9. The structural integrity and condition of the structure
10. Navigational safety including the notification of the Wellington Regional Council Harbourmaster and Maritime New Zealand
Rule R156: New or replacement navigation aids – permitted activity

The placement of a new or replacement navigational aid and the associated use of the structure in the coastal marine area, including any associated:

(a) occupation of space in the **common marine and coastal area**, and
(b) disturbance of the foreshore or seabed, and
(c) deposition in, on or under the foreshore or seabed, and
(d) discharge of contaminants, and
(e) diversion of open coastal water

is a permitted activity, provided the following conditions are met:

(f) the navigation aid is not listed in Schedule E3 (navigation aids), and

(f) written notice detailing the scale and location of the structure and the timing of construction and removal shall be given five working days before work commences to:

(i) the Wellington Regional Council Harbourmaster, and
(ii) Maritime New Zealand, and
(iii) Land Information New Zealand, and

(g) the navigational aid shall be maintained in a structurally safe condition at all times, and

(h) the activity shall comply with the coastal management general conditions specified above in Section 5.7.2.

Rule R160: New structures and disturbance associated with motor vehicles inside the Cook Strait Cable Protection Zone and adjacent foreshore, and inside a mana whenua sites of significance – discretionary activity

The placement of a new structure and the associated use of the structure and disturbance associated with **motor vehicles** in the coastal marine area:

(a) **specific to the National grid**, and

(b) related to the Cook Strait Cable within the Cook Strait Cable Protection Zone shown on Map 52, and adjacent foreshore, and
(c) inside a site of significance identified in Schedule C (mana whenua),

including any associated:

(a)(d) occupation of the common marine and coastal area, and

(b)(e) disturbance of the foreshore or seabed, and

(c)(f) deposition in, on or under the foreshore or seabed, and

(d)(g) discharge of contaminants, and

(e)(h) diversion of open coastal water

that is not permitted controlled by Rule R157 is a discretionary activity.

Rule R161: New structures, additions or alterations to structures outside sites of significance – discretionary activity

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:

(a) disturbance of the foreshore or seabed, and

(b) deposition in, on or under the foreshore or seabed, and

(c) discharge of contaminants, and

(d) diversion of open coastal water

that is not permitted by Rule R156, Rule R175, Rule R176, or controlled by Rule R151 or Rule R157 or Rule R174 or restricted discretionary under Rule R155 or prohibited under Rule R159 is a discretionary activity.

Rule R162: New structures, additions or alterations to structures inside sites of significance – non-complying activity

The placement of a new structure, addition or alteration to a structure 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:

(a) occupation of space in the common marine and coastal area, and
(b) disturbance of the foreshore or seabed, and
(c) deposition in, on or under the foreshore or seabed, and
(d) discharge of contaminants, and
(e) diversion of open coastal water

that is not permitted by Rule R156, Rule R175, Rule R176 or a controlled activity under Rule R151, Rule R157 and Rule R174, or a restricted discretionary activity under Rule R155 or a discretionary activity under Rule R160, or prohibited under Rule R159 is a non-complying activity.

**Rule R163: Replacement of structures or parts of structures – permitted activity**

The replacement of a structure or part of a structure and the associated use of the structure in the coastal marine area, including any associated:

(a) occupation of space in the common marine and coastal area, and
(b) disturbance of the foreshore or seabed, and
(c) deposition in, on or under the foreshore or seabed, and
(d) discharge of contaminants, and
(e) diversion of open coastal water

is a permitted activity, provided the following conditions are met:

(f) the replacement structure has a *functional need* or *operational requirement* to be located in the coastal marine area, and
(g) the structure is not a seawall (excluding revetments or those seawalls protecting wharves within a Commercial Port Area), and
(h) there is no change in the use of the structure, and
(i) the replacement structure is built in the same or similar location as the original structure, and
(j) the replacement structure has the same or lesser footprint as the original structure, and
(k) the replacement structure maintains the form of the original structure and there is no increase in the length, width or height, and
(l) the replacement structure is not inside a site or habitat identified in Schedule C (mana whenua), Schedule E1 (heritage structures), Schedule E2 (wharves...
and boatsheds), Schedule E3 (navigation aids), Schedule F4 (coastal sites), Schedule F5 (coastal habitats) or Schedule J (geological features) excluding those structures for scientific, research or education purposes that will enhance the understanding and long term protection of the coastal marine area, and

(m) the activity shall comply with the coastal management general conditions specified above in Section 5.7.2.

Rule R164: Replacement of structures or parts of structures – restricted discretionary activity
The replacement of a structure or part of a structure and the associated use of the structure in the coastal marine area, including any associated:

(a) occupation of space in the common marine and coastal area, and

(b) disturbance of the foreshore or seabed, and

(c) deposition in, on or under the foreshore or seabed, and

(d) discharge of contaminants, and

(e) diversion of open coastal water

that is not permitted by Rule R149, Rule R152, Rule R156 or Rule R163 or a controlled activity by Rule R157, is a restricted discretionary activity, provided the following conditions are met:

(f) the structure is not identified in Schedule E1 (heritage structures), Schedule E2 (wharves and boatsheds) or Schedule E3 (navigation aids).

Matters for discretion

1. The use of the structure

2. Effects on public access

3. Effects on public open space and visual amenity

4. Effects of disturbance, deposition, discharge and diversion associated with the activity

5. Effects on a site or habitat identified in Schedule C (mana whenua), Schedule F4 (coastal sites), Schedule F5 (coastal habitats) or Schedule J (geological features)

6. Light and noise

7. Effects on shoreline stability in the vicinity and nearby areas